

TUESDAY, OCTOBER 28, 1975



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# federal register



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This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statute citation. The list is kept current in each issue of the Federal Register and copies of the laws may be obtained from the U.S. Government Printing Office.

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**federal register**

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Area Code 202



Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION PART 213—EXCEPTED SERVICE

### Department of the Interior

Section 213.3312 is amended to reflect the following title change from: One Secretarial Attendant to the Secretary to One Steward.

Effective on October 28, 1975.

§ 213.3312(a) (9) is revised as set out below:

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* \* \* \*

(9) One Steward.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

### UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 75-28845 Filed 10-24-75; 8:45 am]

## PART 213—EXCEPTED SERVICE Department of Labor

Section 213.3315 is amended to reflect the following title change from: one Staff Assistant to the Secretary to: one Private Secretary to the Secretary.

Effective on October 28, 1975, § 213.3315 (a) (1) is amended as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.*

(1) Two Special Assistants, one Confidential Assistant, one Staff Assistant, and one Private Secretary to the Secretary.

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954-1958 Comp., p. 218)

### UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 75-28846 Filed 10-24-75; 8:45 am]

## PART 213—EXCEPTED SERVICE Department of the Treasury

Section 213.3305 is amended to show that one position of Confidential Secretary to the Assistant Secretary (Tax Policy) is excepted under Schedule C.

Effective on October 28, 1975, § 213.3305(a) (64) is added as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* \* \* \*

(64) One Confidential Secretary to the Assistant Secretary (Tax Policy).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 75-28847 Filed 10-24-75; 8:45 am]

## PART 213—EXCEPTED SERVICE

### Export-Import Bank of the United States

Section 213.3342 is amended to reflect the following title change: from One Private Secretary to the Special Assistant to the President and Chairman who serves as Economic Advisor to the Chairman and Board of Directors to one Secretary (typing) to the Congressional Liaison Officer.

Effective on October 28, 1975, § 213.3342(h) is amended as set out below:

§ 213.3342 Export-Import Bank of the United States.

(h) One Secretary (typing) to the Congressional Liaison Officer.

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 75-28844 Filed 10-24-75; 8:45 am]

## PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

### Delegation of Authority for Resolving Certain Contract Disputes

In recent years, the Civil Service Commission has substantially increased its capability to audit carriers in the Federal Employees Health Benefits Program. As a result, the number and magnitude of disputes involving audit disallowances have also increased. Prompt resolution of disputes between carriers and the Commission has been impeded by fundamental disagreements regarding the designation of a particular board as the formal mechanism for resolving such disputes.

Since this is a matter of relating to agency management, the public rule-making process is unnecessary and not in the public interest.

Therefore, under authority of section 8913 of title 5, United States Code, 5 CFR part 890 is amended to delegate from the Commission to the Armed Services Board of Contract Appeals the authority to resolve certain disputes involving con-

tracts under the Federal Employees Health Benefits Program. This is done by adding the following new section:

§ 890.105 Delegation of authority for resolving certain contract disputes.

For the purpose of making findings of fact and to the extent that conclusions of law may be required under any proceeding conducted in accordance with the provisions of the disputes clause included in health benefits contracts, the Commission delegates this function to the Armed Services Board of Contract Appeals.

(5 U.S.C. 8913)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 75-28843 Filed 10-24-75; 8:45 am]

## Title 7—Agriculture

### SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

## PART 21—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

### Regulations Corrected

In FR Doc. 75-27360 appearing at page 47751 in the FEDERAL REGISTER of October 10, 1975, the following corrections are made.

On page 47751, second column, the amendatory language to § 21.212 is corrected to read as follows:

3. Section 21.212 is amended by revising the last sentence in the introductory paragraph and paragraphs (a), (b) and (c) to read as follows:

§ 21.212 Farm Operation.

\* \* \* The activity is capable of contributing materially if, during the immediately preceding two-year period or the period of operation, whichever is the lesser, or during such other period as the agency head determines to be more equitable, the value of sales and the market value of home use contributes:

(a) Average annual gross receipts of at least \$2,000 in value; or

(b) Average annual net earnings of at least \$1,000 in value; (see § 21.308) or

(c) At least one-third of the average annual gross income of the owner(s), including income from all sources, such as welfare if any.

The following amendatory language to §§ 21.302, 21.304 and Subpart E was inadvertently omitted:



4. Section 21.302 is amended as follows:

**§ 21.302 Extent of eligibility.**

(a) \* \* \*

(3) By deleting this paragraph in its entirety.

5. Section 21.304 is amended by revising paragraph (c).

**§ 21.304 Fixed payment.**

(c) Where a person is displaced from a part of his farm operation the fixed payment shall be made if the displacing agency determines that the part taken met the definition of a farm operation prior to the taking, or the taking caused the operator to be displaced from the farm operation on the remaining land, or the taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

6. Subpart E is amended by adding a new § 21.504 as follows:

**§ 21.504 Advance payments in condemnation cases.**

(a) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The displacing agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, provided the homeowner enters into an agreement with the agency that:

(1) Upon final determination of condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(2) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, he will refund to the acquiring agency, an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(b) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination using the award as the acquisition price.

Dated: October 20, 1975.

JOSEPH R. WRIGHT, Jr.,  
Assistant Secretary  
for Administration.

[FR Doc.75-28789 Filed 10-24-75; 8:45 am]

**CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

**PART 915—AVOCADOS GROWN IN SOUTH FLORIDA**

**Delinquent Assessments**

This amendment adds a new section to the Rules and Regulations currently in effect pursuant to Marketing Order No. 915. The new section requires each handler, who has delinquent assessments, which become due after November 30, 1975, to pay the Avocado Administrative Committee interest of one percent per month on any unpaid assessment balance beginning 30 days after date of billing.

Notice was published in the FEDERAL REGISTER issue on September 26, 1975, (40 FR 44334), that the Department was giving consideration to a proposal to amend the rules and regulations (Subpart—Rules and Regulations; 7 CFR 915.110-915.150) under provisions of the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of Avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). No comments regarding the proposal were received.

The slow payment of some handlers has caused the program additional book-keeping, clerical, and mailing expense. Delinquent handlers have received undue advantage over those handlers who have paid their assessments in a timely manner in that unpaid funds have been used as interest free short term capital.

After consideration of all relevant matters presented, including that in the aforesaid notice which was submitted by the Avocado Administrative Committee (established pursuant to the said amended marketing agreement and order as the agency to administer the provisions thereof), it is hereby found that the amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations), pursuant to said amended marketing agreement and order is in accordance with the provisions of said amended marketing agreement and order and will tend to effectuate the declared policy of the act. Therefore, Subpart—Rules and Regulations of the said amended marketing agreement and order is hereby amended to add a new § 915.155 to read as follows:

**§ 915.155 Delinquent assessments.**

Each handler shall pay interest of one percent per month on any unpaid assessment balance beginning 30 days after date of billing. Such interest charge is to apply to any unpaid assessments which become due the Avocado Administrative Committee after the effective date of this section.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated, October 22, 1975, to become effective November 30, 1975.

CHARLES R. BRADER,  
Deputy Director, Fruit and  
Vegetable Division, Agricultural  
Marketing Service.

[FR Doc.75-28865 Filed 10-24-75; 8:45 am]

**PART 980—VEGETABLES: IMPORT REGULATIONS**

**Tomatoes**

**Correction**

In FR Doc. 75-28142 appearing at page 48687 in the issue for Friday, October 17, 1975, in § 980.209, the paragraph designated (d) after (a) (2) now reading "(d) Designation of governmental in-" should be designated as paragraph (b) and should read "(b) Minimum quantity exemption. Any" . . .

**PART 982—HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON**

**Expenses of the Filbert Control Board, and Rate of Assessment, for the 1975-76 Fiscal Year**

Notice was published in the October 1, 1975, issue of the FEDERAL REGISTER (40 FR 45175) regarding proposed expenses of the Filbert Control Board, and rate of assessment, for the 1975-76 fiscal year.

The proposal was under §§ 982.60 and 982.61 of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The total expenses proposed in the notice were \$36,129 and the assessment rate proposed was 0.20 cent per pound of assessable filberts.

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were received.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Filbert Control Board, and other available information, it is found that the expenses of the Filbert Control Board, and rate of assessment, for the fiscal year beginning August 1, 1975, shall be contained in a new § 982.320 in Subpart—Operating Reserve Fund; Budget of Expenses and Rate of Assessment (7 CFR 982.300, 982.319).

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the marketing agreement and this part require that the rate of assessment fixed for a particular fiscal year



shall be applicable to all assessable filberts from the beginning of such year; and (2) the current fiscal year began on August 1, 1975, and the rate of assessment hereinafter fixed will automatically apply to all such assessable filberts beginning with that date.

Section 982.320 is added to read as follows:

§ 982.320 Expenses of the Filbert Control Board and rate of assessment for the 1975-76 fiscal year.

(a) *Expenses.* Expenses in the amount of \$36,129 are reasonable and likely to be incurred by the Filbert Control Board during the fiscal year beginning August 1, 1975, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of Assessment.* The rate of assessment for said fiscal year, payable by each handler in accordance with § 982.61, is fixed at 0.20 cent per pound of filberts. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 22, 1975.

CHARLES R. BRADER,  
Deputy Director,  
Fruit and Vegetable Division.

[FR Doc.75-28866 Filed 10-24-75; 8:45 am]

#### Title 14—Aeronautics and Space

[Airspace Docket No. 75-WA-17]

#### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Airway Description

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to transfer from V-107 to V-299 the exclusion note regarding R-2519 and R-2520.

On September 25, 1975, Airspace Docket No. 75-WE-21 was published in the FEDERAL REGISTER (40 FR 44126) transposing airway numbers assigned to segments of V-107 and V-299 in the vicinity of Los Angeles-Ventura-Fillmore, Calif., because the exclusion note must continue to accompany the description of the airway segment in the vicinity of R-2519 and R-2520 as it does at the present time in V-107, it is hereby deleted in V-107 and added to V-299 concurrent with the change of airway number on that airway segment.

Since this amendment is editorial in nature and is a minor matter on which the public would have no particular desire to comment, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0902 GMT, December 4, 1975, as hereinafter set forth.

Section 71.123 (40 FR 307) is amended as follows:

1. In V-107 "The airspace within R-2519 more than 3 statute miles W of Ventura 155° and 331° radials, the airspace within R-2519 below 5,000 feet MSL, and the airspace within R-2520 is excluded" is deleted.

2. In V-299 "The airspace within R-2519 more than 3 statute miles W of Ventura 155° and 331° radials, the airspace within R-2519 below 5,000 feet MSL, and the airspace within R-2520 is excluded." is added after "Gorman, Calif.," and before "The Portion outside . . ."

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on October 21, 1975.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc.75-28830 Filed 10-24-75; 8:45 am]

[Airspace Docket No. 74-SO-82]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

##### Alteration of Control Areas, Reporting Points, and Jet Routes

On September 22, 1975, FEDERAL REGISTER Document 75-25097 was published in the FEDERAL REGISTER (40 FR 43487) amending Parts 71 and 75 of the Federal Aviation Regulations by altering certain additional control areas, reporting points and jet routes to become effective December 4, 1975. Included in these amendments were the revocation of five reporting points and the relocation of three reporting points.

In addition to the five reporting points which were revoked, it was intended also to revoke the GAUGE and PALME reporting points which are on routes that will be revoked by the amendment. They will no longer serve any useful purpose after December 4, 1975, and would create chart clutter. Such action is taken herein.

One of the relocated reporting points was HOBEE; however, the geographic coordinates for HOBEE were specified incorrectly as Lat. 29°13'00" N., Long. 79°07'00" W., instead of Lat. 29°13'10" N., Long. 79°09'38" W. Action to make this correction is taken herein.

Since this action is a minor matter on which the public would have no particular desire to comment, notice and public procedure thereon are unnecessary, and in order to incorporate these changes in the basic amendment good cause exists for making this amendment to the Federal Register Document effective on October 28, 1975.

In consideration of the foregoing, effective on October 28, 1975, FR Document 75-25097 (40 FR 43487) is amended as hereinafter set forth.

1. Paragraph 2, subparagraph a. is revised to read as follows:

The following reporting points are revoked:

AZANA, BARON, HALBI, SWORD, SNOOK, GAUGE, and PALME.

2. In paragraph 2, subparagraph b. HOBEE is revised to read as follows:

HOBEE: Lat. 29°13'10" N., Long. 79°09'38" W. (INT of the 192° bearing from Carolina Beach, N.C., RBN and the Orlando, Fla., VORTAC 070° radials).

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on October 20, 1975.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc.75-28828 Filed 10-24-75; 8:45 am]

[Airspace Docket No. 75-NE-34]

#### PART 73—SPECIAL USE AIRSPACE

##### Revocation of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to revoke Restricted Area R-4106.

Since this amendment restores airspace to the public use and reduces the burden on the public, notice and public procedure hereon are unnecessary, and for that reason it is in the public interest to make this amendment effective as soon as practicable.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective October 28, 1975, as hereinafter set forth.

In § 73.41 (40 FR 678) R-4106 North Eastham, Mass., is revoked.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on October 21, 1975.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc.75-28831 Filed 10-24-75; 8:45 am]

#### Title 16—Commercial Practices

#### CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2730]

#### PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

##### Guil Industries Corp., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 Business status, advantages or connections; 13.15-225 Personnel or staff; 13.15-250 Qualifications and abilities; 13.15-260 Retailer as wholesaler, jobber, factory distributor; § 13.20 Comparative data or merits; § 13.110 Endorsements, approval and testimonials; § 13.155 Prices; 13.155-35



Discount savings; 13.155-70 Percentage savings; 13.155-80 Retail as cost, whole-sale, discounted, etc.; § 13.160 Promotional sales plans; § 13.205 Scientific or other relevant facts. Subpart—Claiming or using endorsements or testimonials falsely or misleadingly; § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; 13.330-33 Doctors and medical profession; 13.330-45 Health authorities, hospitals, nursing profession, etc. Subpart—Corrective actions and/or requirements; § 13.533 Corrective actions and/or requirements; 13.533-15 Destruction or records and/or data; 13.533-45 Maintain records; 13.533-45(k) Records, in general; 13.533-53 Recall of merchandise, advertising material, etc. Subpart—Disparaging competitors and their products—Competitors' products; § 13.1025 Safety. Subpart—Furnishing means and instrumentalities of misrepresentation or deception; § 13.1055 Furnishing means and instrumentalities of misrepresentation or deception. Subpart—Misrepresenting oneself and goods—Business status, advantages or connections; § 13.1520 Personnel or staff; § 13.1535 Qualification—Goods; § 13.1575 Comparative data or merits; § 13.1665 Endorsements; § 13.1740 Scientific or other relevant facts—Prices; § 13.1805 Exaggerated as regular and customary; § 13.1820 Retail as cost, etc., or discounted. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

*In the Matter of Guild Industries Corp., a corporation, and Martin Byrd, individually and as an officer of said corporation.*

Consent order requiring a St. Petersburg, Fla., manufacturer and seller of baby furniture, among other things to cease misrepresenting endorsements by the medical profession; misrepresenting savings and prices; misrepresenting the status and/or qualifications of its employees; and using scare tactics to secure merchandise orders.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:<sup>11</sup>

#### ORDER

It is ordered That respondents Guild Industries Corp., a corporation, its successors and assigns, and its officers, and Martin Byrd, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, or through franchisees or licensees, in connection with the advertising, offering for sale, sale or distribution of baby furniture or other articles of merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade

Commission Act, as amended, do forthwith cease and desist from:

1. Representing, directly or by implication, orally or in writing that:

a. Their products have been recommended by leading hospitals, doctors, nurses and pediatricians; or misrepresenting in any manner the endorsement of their products.

b. Respondents' products are sold at direct factory discounts or at less than normal retail prices or at discount prices; or misrepresenting in any manner the savings that consumers will obtain by purchasing respondents' products.

c. Their franchisees and distributors and the agents, representatives and salesmen thereof are direct factory demonstrators or representatives; or misrepresenting in any manner the employment status of persons selling respondents' products to the consuming public.

d. Their franchisees and distributors and the agents, representatives and salesmen thereof are safety specialists and have had special training in safety procedures; or misrepresenting in any manner the qualifications of persons engaged in the sale of respondents' products to the consuming public.

e. Infant fatalities caused by structural defects in conventional high chairs are a relatively frequent occurrence.

f. The lives of children are endangered by the use of conventional high chairs.

2. Inducing the purchase of respondents' products by employing scare tactics through the preparation and dissemination of sales and promotional materials, newspaper clippings and accident pictures which may tend to or do unduly instill fear in members of the purchasing public as to the dangers of the use of conventional high chairs; or misrepresenting in any manner the safety of competitors' products.

Provided however, That respondents may make available to prospective customers reports or publications of Federal, State or local government agencies or other official and recognized organizations devoted to consumer safety, and which publications and reports are not more than three (3) years old when used.

3. Supplying to or placing in the hands of respondents' distributors, franchisees or salesmen, brochures, sales materials, flip-charts, slides or any other advertising or promotional materials which are intended for use or which may be used in connection with the sales of respondents' products to the consuming public and which contain any of the representations prohibited in Paragraphs 1 and 2 hereof.

It is further ordered That respondents herein shall forthwith distribute a copy of this Order to each of their officers and to respondents' present and future representatives, distributors, franchisees and dealers engaged in the sale of respondents' products, and secure from each of such persons a signed statement acknowledging receipt of said Order.

It is further ordered That the respondents herein shall direct all of their distributors, franchisees or dealers, to re-

move and destroy or return to respondents all brochures, sales manuals, flip-charts, or any other advertising materials disseminated to them by the respondents, as described in Paragraph 3 above, of this Order and which contain any of the representations prohibited in Paragraphs 1 and 2 above of this Order; and in the event any such distributor, franchisee or dealer refuses to comply therewith respondents shall in that event cease to furnish and supply their products to such distributor, franchisee or dealer for resale to the public until such time as compliance with this requirement is obtained.

It is further ordered That: (a) Respondents herein shall notify all of their distributors, franchisees, or dealers that respondents are obligated by this Order to cease to furnish and supply their products for resale to the public by any distributor, franchisee, or dealer who fails to comply with the requirements of the Federal Trade Commission's Trade Regulation Rule concerning a Cooling-Off Period for Door-to-Door Sales, 16 C.F.R. Section 429, 37 FR 22934, which is herein incorporated by reference; (b) In the event that any such distributor, franchisee, or dealer refuses or fails to comply with the requirements of the aforesaid Trade Regulation Rule, respondents shall in that event cease to furnish and supply their products to such distributor, franchisee, or dealer for resale to the public until such time as compliance with the requirements of said Trade Regulation Rule is obtained.

It is further ordered That respondents shall maintain, for at least a two (2) year period, copies of all literature, brochures, visual aids and any other sales or promotional materials used in connection with the promotion or sale of respondents' products, to include copies of any materials made available or distributed to consumers in the course of such promotion or sale; and such materials shall be made available to Federal Trade Commission representatives for inspection upon request in writing or by visitation during respondents' regular business hours.

It is further ordered That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered That the respondents herein shall within sixty (60) days after service upon them of this order,

<sup>11</sup> Copies of the Complaint, Decision and Order, filed with the original document.



file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

The Decision and Order was issued by the Commission, September 26, 1975.

CHARLES A. TOBIN,  
Secretary.

[FR Doc. 75-28780 Filed 10-24-75; 8:45 am]

## Title 22—Foreign Relations

### CHAPTER I—DEPARTMENT OF STATE

[Departmental Regulation 108.718]

## PART 15—PROCEDURES OF THE BOARD OF THE FOREIGN SERVICE

### Board of the Foreign Service

On July 23, 1975, the Department of State published a notice of proposed rule-making in the *FEDERAL REGISTER* (40 FR 30824), setting forth proposed regulations and procedures for the Board of the Foreign Service to implement Executive Order 11636, as amended; Executive Order 11636; and Reorganization Plan No. 4 of 1965. These regulations will be added to Title 22 of the Code of Federal Regulations as Part 15. Interested persons were invited to submit written comments, suggestions or objections regarding the proposed regulations no later than August 22, 1975.

After consideration of all such relevant matter presented, the regulations for Part 15 are hereby adopted, subject to the following changes:

1. In paragraph (b) of § 15.1 an addition is made to provide for equal treatment of the parties before the Board in matters considered under Executive Order 11636.

2. Paragraph (c) of § 15.1 is amended to allow other persons to attend Board meetings for the purpose of assisting Board members.

3. Paragraph (d) of § 15.1 is amended to assure that the representation and authority level of ad hoc representatives is consistent with the criteria presently employed for alternates.

4. Paragraph (e) of § 15.1 is amended to define "personnel operations" as including "employee-management relations."

5. In paragraph (g) of § 15.1, the number of Board members required to request a meeting is changed from four to three.

6. Paragraph (b) of § 15.2 is amended to provide for access to the verbatim transcript by a Board member's representative.

7. Paragraph (b) of § 15.3 is amended to clarify the circumstances under which a proxy vote may be permitted.

8. The final sentence of paragraph (c) of § 15.3 is deleted in order to eliminate the possibility of a double vote for the Chairperson.

9. Paragraph (b) of § 15.4, is amended to clarify when timeliness requirements in consultability matters will apply.

10. Paragraph (b) of § 15.5 is amended to establish the same criteria for liaison officers as apply to Board members when

considering appeals under Section 9 of Executive Order 11636.

*Effective date.* This part becomes effective on October 31, 1975.

[SEAL] ROBERT S. INGERSOLL,  
Acting Secretary of State.

OCTOBER 17, 1975.

#### Sec.

- 15.1 Meetings.
- 15.2 Agenda and documentation.
- 15.3 Voting and decisions.
- 15.4 Issues of consultability.
- 15.5 Miscellaneous.

*AUTHORITY:* Sec. 4 of the Act of May 26, 1949, as amended (63 Stat. 111; 22 U.S.C. 2658); E.O. 11264 (31 FR 67); E.O. 11636 (36 FR 24901).

#### § 15.1 Meetings.

(a) The Executive Secretary of the Board of the Foreign Service (hereinafter "the Executive Secretary") will notify members of the Board of the Foreign Service (hereinafter "the Board") when a meeting is scheduled; that notice will include information related to the date, time, place and agenda of the meeting. The Executive Secretary will also advise agency management (as defined in section 2 of Executive Order 11636) and the recognized organization (as defined in 22 CFR 14.3(c)) of the date, time, place and subject of a meeting when the Board meets in exercise of its functions under Executive Order 11636.

(b) The Board may, at the discretion of its chairperson, invite either or both agency management and the recognized organization to make verbal or written presentations on matters before the Board. If the Board were meeting in consideration of an appeal or related matter under Executive Order 11636, it could invite both the exclusive representative and agency management to make presentations before it, but would not invite one without the other.

(c) Meetings may be attended by only the following persons:

(1) Board members or their alternates;

(2) The non-voting observer from the Office of Management and Budget or his alternate;

(3) The Executive Secretary;

(4) A conference reporter who will make a verbatim transcript of the meeting's proceedings, as appropriate;

(5) Board members may bring one person to advise or assist them on the subject matter. Such person may not participate in the deliberations of the Board unless his/her principal first seeks and obtains appropriate recognition from the Chairperson. The alternate to the Chairperson and Vice Chairperson will attend all meetings but will not participate in the proceedings if both principals are present.

(6) Legal counsel or others, as approved or invited by the Chairperson. Authorization for others to attend the meeting must be obtained from the Chairperson, through the Executive Secretary.

(d) It is expected that all 10 of the Board members plus the non-voting ob-

server (or their alternates) will attend all meetings. If a Board member or his/her alternate is unable to attend a meeting, he/she (or the agency head, if circumstances so warrant) shall designate an ad hoc alternate member for that meeting so as to maintain an appropriately balanced representation and voting at meetings. Consultation by management (as defined in Section 2 of Executive Order 11636) with the recognized organization is not required in naming an ad hoc alternate to attend a meeting, but the same restrictions applied to a member or alternate (see paragraph (e)) also apply to the ad hoc alternate. The level of representation and authority of the ad hoc alternate should be reasonably consistent with the criteria employed to date in the selection of regular alternates.

(e) For the purposes of consideration of matters under Section 9 of Executive Order 11636, the term "personnel operations" used in Section 9(b) of the Executive Order includes "employee-management relations".

Board members are expected to be broadly representative of their agency's interests, but on appeal cases and related matters are expected to reach decisions independently and impartially and not as representatives of their designating agencies.

(f) A quorum at a meeting of the Board shall consist of 7 voting members, including at least 5 members from the foreign affairs agencies.

(g) A meeting of the Board can be convened only by the Chairperson or Vice Chairperson. The Chairperson will consider requests for meetings by an individual Board member or group of members, but the decision to call or not to call a meeting remains with the Chairperson. If three members of the Board request a meeting on a particular issue, however, the Chairperson will be obliged to schedule a meeting within 30 days of the date of the request, or within 30 days of the date of the third member's request, should the three requests not be submitted simultaneously.

#### § 15.2 Agenda and documentation.

(a) A fixed agenda will be established for each meeting and circulated in advance to each member of the Board, unless, because of unforeseen circumstances, an emergency meeting must be convened on an urgent matter. When possible, a brief period of approximately 15 minutes will be included as the last item on each agenda for free discussion of topics of interest or concern to members. The Board will not normally take action on matters introduced for consideration during this free discussion period.

(b) A written record will be made of all of the Board meetings, unless otherwise determined by the Chairperson. This record will be filed with the Executive Secretary and will be available for review by any Board member or his representative. Minutes of each meeting shall be drafted by the Executive Secretary and circulated to the members. Ap-



propriate parties will receive decisions, findings, recommendations, or advice from the Board in writing. Those individuals or agency representatives who are invited to appear before the Board will have access to the written record of that part of the meeting related to their appearance.

(c) Position papers and other related documents, which interested parties (if invited to do so by the Chairperson) or members of the Board wish to provide as a basis for discussion at a meeting should be submitted to the Executive Secretary in 12 copies at least 10 days prior to the date of the meeting so that the Executive Secretary may circulate the documents to the members in sufficient time for review. The 10-day rule for distribution of documents may be waived by the Executive Secretary if, in his or her opinion, the situation so demands.

### § 15.3 Voting and decisions.

(a) Voting will be by members or their alternates. An ad hoc alternate member who attends a meeting in place of the member or regular alternate will also have the right to participate fully in the proceedings of that meeting and to vote.

(b) As a general rule, proxy voting will not be permitted. If someone participates in the major portion of the discussion and must leave shortly before the actual voting takes place, that person, at the Chairperson's discretion, may leave his proxy vote with the Chairperson.

(c) Motions will first be presented in a positive, rather than a negative version; that is, a motion will be considered first to accept or approve a policy, a practice or recommendation, rather than to reject it, and a majority vote in favor of it will be necessary. Therefore, a tie vote will be considered as not having approved that policy or practice. Where the question of forwarding a recommendation to the head of a foreign affairs agency is involved, the recommendation shall be forwarded together with the statement that the Board's consideration of that recommendation resulted in a tie vote, if such is the case. The Chairperson may vote on all issues.

(d) The Executive Secretary will prepare for the Chairperson's signature, a memorandum to the head of the agency affected transmitting the Board's decision and requesting that the head of the agency advise the Chairperson within 30 days as to his or her action on the decision.

### § 15.4 Issues of consultability.

(a) Agency management will inform the recognized organization in writing, in advance, of any proposed changes in personnel policies and procedures which affect working conditions, so that the recognized organization can exercise its rights to consult, to seek determination as to whether an issue is consultable, or to confer, as provided in Executive Order 11636.

(b) The Board will act expeditiously on any appeal. Parties are required to raise the procedural issues of consult-

ability in a timely fashion at the early stages of the consultation process, as presently required by agency regulations. Timeliness requirements will apply to each new proposal or issue which is presented in writing during consultations.

(c) The Board will not entertain, act upon or refer to the Employee-Management Relations Commission (Section 5 of Executive Order 11636) any claims of consultability unless the parties have complied with the requirement of prior notification in writing as delineated in § 15.4(a) and with the timeliness requirements as delineated in § 15.4(b).

(d) Pursuant to section 9(a) of Executive Order 11636, however, a foreign affairs agency or recognized organization may, within 10 days after transmittal of the Board's decision to the agency head, raise before the agency head, its view that the Board's decision is violative of law, applicable higher-level regulations, or Executive Order 11636. This paragraph may not be considered as restrictive as to other rights and authorities created by Section 9(a) of the Order.

### § 15.5 Miscellaneous.

(a) Members of the Board and the observer may appoint a liaison officer of their own choosing to serve as their point of contact with the Executive Secretary on administrative, technical, or other matters related to the Board.

(b) In the case of the foreign affairs agencies, no one responsible for personnel operations or employee-management relations in their agencies or reporting to someone holding such responsibilities shall be eligible to perform liaison officer duties in the Board's consideration of an appeal under Section 9 of Executive Order 11636.

[FR Doc. 75-28785 Filed 10-24-75; 8:45 am]

## Title 31—Money and Finance: Treasury

### CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

#### PART 51—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

##### Nondiscrimination Regulations

Pursuant to the authority vested in the Secretary of the Treasury by the State and Local Fiscal Assistance Act of 1972 (the Revenue Sharing Act), approved October 20, 1972, the Department of the Treasury hereby amends the nondiscrimination regulations in Part 51 of Subtitle B of Title 31, Code of Federal Regulations, which became effective April 5, 1973 (38 FR 9132) for entitlement periods beginning on or after January 1, 1973.

On July 24, 1975 the Department of the Treasury published civil rights regulations under a notice of proposed rule-making (40 FR 30974). Interested persons were invited to submit written comments on or before August 21, 1975. Also those proposed regulations were submitted to the Advisory Commission on Intergovernmental Relations for distribution to State and local governments under the Office of Management and Budget Circular A-85 review and comment proce-

dures. As a result of both of these procedures, the Department received 54 comments on the proposed regulations. Comments are available for inspection and copying at the Library, Department of the Treasury, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220.

Each of the written comments was carefully reviewed and the Department is now publishing the Office of Revenue Sharing civil rights regulations with the following changes.

Section 51.52(b) (iii), (vi), and (vii) are revised to insert the words "any person" in order to clarify the scope of protection afforded in each of these clauses.

Section 51.52(b) (4) encourages recipient governments to use revenue sharing funds to correct an imbalance in services or facilities resulting from prior discriminatory practice. A new sentence is added to that provision to make clear that when a program has been funded with revenue sharing funds, thus establishing jurisdiction by the Office of Revenue Sharing, then any imbalance of services or facilities must be ameliorated.

Section 51.53(a) is revised to state that, in addition to the specific employment practices that are within the scope of the nondiscrimination provision, that provision also covers all other terms and conditions of employment.

The Department of the Treasury has been advised that the Equal Employment Opportunity Coordinating Council, established by 42 U.S.C. 2000e-14, is working to prepare a set of guidelines for uniform application by the various Federal agencies having responsibility for implementation and enforcement of equal employment opportunity legislation, orders and policies. When such guidelines are approved by the Council, section 51.53(b) will, if necessary, be modified accordingly.

Section 51.53(d) addresses employment compliance reviews. In proposed form, paragraph (d) stated that employment compliance reviews would be scheduled by the Office of Revenue Sharing where programs funded with revenue sharing funds show a significant disparity between the percentage of minority employees and the percentage of minority persons in the work force. This paragraph is revised to include women in this comparison for purposes of identifying possible discrimination based on sex.

Section 51.54(c) (2) deals with sex discrimination in the area of fringe benefits. This provision in proposed form required recipient governments to justify any unequal fringe benefit contributions or benefits to men and women in a revenue sharing funded program as not being an arbitrary distinction based on sex. The section has been modified to make it an unlawful employment practice to provide for both unequal benefits and unequal contributions in the areas of insurance, pension or retirement plans, welfare or other fringe benefit programs. Further, the section makes it an unlawful employment practice to provide for either unequal benefits or un-



equal contributions in these areas unless directly related to actuarial differences. The section requires the recipient government to provide, upon request of the Secretary, proof of such actuarial differences.

As in the case of § 51.53(b), the guidelines being prepared by the Equal Employment Opportunity Coordinating Council will also concern sex discrimination in the area of fringe benefits. When such guidelines are approved by the Council, § 51.54(c)(2) will, if necessary, be modified accordingly.

Section 51.54(d)(1) covers sex discrimination based on family status. In proposed form, that section permitted recipient governments to take an employment action based on the employee's status as head of household or principal family wage earner so long as there was no distinction based on sex. Because this status principally attaches to male employees, this provision is being revised to prohibit a recipient government from taking any employment action based on anyone's status as head of household or principal family wage earner. Section 51.54(d)(1) is also being revised to state that a recipient government that takes an employment action which treats a woman differently because of her pregnancy must demonstrate that the pregnancy of that person prevents adequate job performance by that individual instead of demonstrating that pregnancy in general prevents adequate job performance.

Section 51.54(d)(2) regarding pregnancy as a temporary disability is not changed in substance. While this section is being promulgated in final form, it should be noted that the Supreme Court has granted certiorari in the case of *Wetzel v. Liberty Mutual Insurance Company*, 511 F. 2d 199 (Sup. Ct. Docket No. 74-1245), in which the validity of standards similar to those established in § 51.54(d)(2) are being challenged. It is anticipated that the Court will hear arguments early in the October 1975 Term. Should the standards established by the Equal Employment Opportunity Commission receive an adverse ruling in the *Wetzel* case, § 51.54(d)(2) will, if necessary, be modified to comply with the decision.

Section 51.54(e) sets forth the exemption from the sex discrimination prohibition where sex is a bona fide occupational qualification. That provision is revised to include the judicial language that requires an employer to demonstrate that all, or substantially all, of one sex are unable to perform the job in question in order to take an employment action based on a bona fide occupational qualification.

Section 51.56(a) states that recipient governments must provide access to relevant information to authorized representatives of the Office of Revenue Sharing. Because the Attorney General has been given independent authority to en-

force nondiscrimination in revenue sharing funded programs by section 122(c) of the Act, this provision is being revised to require that representatives of the Department of Justice also be given access to information relating to possible cases of discrimination.

Section 51.57(a) stated in proposed form that anyone or any class which believed themselves to be subjected to discrimination prohibited by the regulations could file an administrative complaint with the Office of Revenue Sharing. This provision is revised to conform to the existing policy of the Office of Revenue Sharing which allows any person, regardless of his or her relation to the alleged discrimination, to file an administrative complaint.

Section 51.58(b) states the requirement that any recipient government which has been determined to have violated the civil rights regulations must take affirmative action to overcome the effects of discriminatory actions and practices. A new sentence is being added to this paragraph to state that the Secretary will determine the steps necessary to bring the recipient government into compliance and that the Secretary will determine a timetable for the accomplishment of those steps.

Finally, § 51.62 concerning delegation by the Secretary of responsibilities to enforce these civil rights regulations is being added to Subpart E. This section is similar to the prior delegation provision in § 51.32(g). Section 51.62 provides that the Secretary may delegate enforcement responsibility to other Federal agencies and agencies of State governments. However, the authority to review the decision of an administrative law judge may only be delegated to officials of the Department of the Treasury.

Because the purpose of these regulations is to provide immediate guidance to the States and units of local government in order that the requirements of the Act be complied with, it is hereby found impracticable to issue such regulations subject to the effective date limitation of 5 U.S.C. 553(d). These regulations shall become effective October 22, 1975.

These regulations are issued under the authority of the State and Local Fiscal Assistance Act of 1972, as amended, Title I, Public Law 92-512 (31 U.S.C. Supp. III 1221-1263) and Treasury Department Order No. 224, dated January 26, 1973 (38 F.R. 3342).

Dated: October 22, 1975.

[SEAL] JOHN K. PARKER,  
Acting Director,  
Office of Revenue Sharing.

Approved:

EDWARD C. SCHMULTS,  
Under Secretary.

A new subpart E is added to Part 51. Current subparts E and F are redesignated F and G.

Subpart E—Nondiscrimination in Programs Funded With Entitlement Funds

| Sec.  | Purpose.                                   |
|-------|--------------------------------------------|
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| 51.51 | Discrimination prohibited.                 |
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AUTHORITY: State and Local Fiscal Assistance Act of 1972, as amended, Title I, Pub. L. 92-512 (31 U.S.C. Supp. III 1221-1263) T.D. 224, dated January 26, 1973 (38 FR 3342).

Subpart E—Nondiscrimination in Programs Funded With Entitlement Funds

§ 51.50 Purpose.

The purpose of this subpart is to effectuate Sec. 122 of the Act to the end that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with entitlement funds made available pursuant to subtitle A of title I of the Act.

§ 51.51 Definitions.

Unless the context requires otherwise, as used in this subpart, the term:

(a) "Facility" includes all or any part of structures, equipment, or other real or personal property or interests therein.

(b) "Funded" means that entitlement funds have been made available for expenditure in a designated program or activity through legislative action.

(c) "Program or activity" means any function conducted by an identifiable administrative unit of the recipient government, or by any other unit of government or private contractor receiving entitlement funds from the recipient government.

§ 51.52 Discrimination prohibited.

(a) General. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with entitlement funds made available pursuant to subtitle A of title I of the Act.

(b) Specific discriminatory actions prohibited. (1) A recipient government shall not, under any program or activity to which the regulations of this subpart apply, directly or through contractual or other arrangements, on the grounds of race, color, national origin, or sex:

(i) Deny any service or other benefit provided.

(ii) Provide any service or other benefit which is different, or is provided in a different form from that provided to others.



(iii) Subject any person to segregated or separate treatment in any facility or in any matter or process related to receipt of any service or benefit.

(iv) Restrict in any way the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or other benefit.

(vi) Deny any person an opportunity to participate in a program or activity as an employee.

(vii) Deny any person an equal opportunity to participate as appointed members of planning or advisory bodies in connection with the disposition of entitlement funds.

(2) A recipient government may not utilize criteria or methods of administration which have the effect of:

(i) Subjecting individuals to discrimination on the basis of race, color, national origin, or sex.

(ii) Perpetuating the results of past discriminatory practices.

(iii) Defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.

(3) A recipient government may not, with respect to any program or activity to which this subpart applies, make selections of site or location of facilities which have the effect of:

(i) excluding individuals from such facilities.

(ii) Denying the individuals the benefits of such facilities.

(iii) Subjecting individuals using the facilities to discrimination on the ground of race, color, national origin, or sex.

(4) Recipient governments are encouraged to take action with entitlement funds to ameliorate an imbalance in services or facilities provided to any geographic area or specific group in order to overcome the effects of prior discriminatory practice or usage. If entitlement funds are allocated to a program or activity which currently provides an imbalance of services or facilities to persons protected by this subpart, then such imbalance must be ameliorated.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

#### § 51.53 Employment.

(a) *Employment practices.* In any program or activity funded in whole or in part with entitlement funds, a recipient government may not (directly or indirectly through contractual or other arrangements) subject any individual to discrimination on the ground of race, color, national origin, or sex in its employment practices. These practices include recruitment, recruitment advertising, hiring, layoff, termination, upgrading, demotion, transfer, rates of pay or

other forms of compensation, use of facilities, and other terms and conditions of employment.

(b) *Employee selection procedures.* The Equal Employment Opportunity Commission, in carrying out its responsibilities in ensuring compliance with title VII of the Civil Rights Act of 1964, has published Guidelines on Employee Selection Procedures (29 CFR Part 1607) to assist in establishing and maintaining equal employment opportunities. Among other things, these Guidelines forbid the use of employee selection practices, procedures, and devices (such as tests, minimum educational levels, and the like) which disqualify a disproportionate number of minority individuals or women for employment and which are not related to job performance. Recipient governments using selection procedures which are not in conformity with the EEOC Guidelines shall, upon request of the Secretary, set forth the reasons for any such nonconformity, and, if necessary, the actions the recipient government is taking or will take to assure that its selection procedures are job related.

(c) *Self-evaluation.* Recipient governments are expected to conduct a continuing program of self-evaluation to ascertain whether any of their recruitment, employee selection, or promotional policies (or lack thereof) directly or indirectly have the effect of denying equal employment opportunities to minority individuals or women.

(d) *Employment compliance reviews.* Compliance reviews of recipient governments will be scheduled by the Office of Revenue Sharing, giving priority to any recipient government programs funded with entitlement funds which show a significant disparity between the percentage of minority persons or women in the work force and the percentage of minority or women employees in the applicable programs.

#### § 51.54 Sex discrimination.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in recruitment, hiring, or employment, whether full-time or part-time, under any program or activity funded in whole or in part with entitlement funds.

(b) *Recruitment and advertisement.* (1) Recipient governments engaged in recruiting activity must recruit employees of both sexes for all jobs.

(2) Advertisement in newspapers and other media for employment must not express a sex preference. The placement of an advertisement in columns headed "Male" or "Female" will be considered to be a discriminatory limitation.

(3) A recipient government shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such recruitment has the effect of discriminating on the basis of sex.

(c) *Job policies and practices.* (1) Employees of both sexes shall have an equal opportunity to any available job that he or she is qualified to perform.

(2) Recipient governments must not make any distinction based upon sex in employment opportunities, wages, hours or other conditions of employment. It shall be an unlawful employment practice for an employer to have a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex. It shall be an unlawful employment practice for an employer to provide for both unequal benefits and unequal contributions in the areas of insurance, pension or retirement plans, welfare or other fringe benefits programs. Further, it shall be an unlawful employment practice for an employer to provide for either unequal benefits or unequal contributions in such areas unless such unequal benefits or unequal contributions are directly related to actuarial differences. Proof of such actuarial differences shall be provided by the recipient government upon the request of the Secretary. In the areas of insurance, pensions, welfare programs and other fringe benefits, it shall be an unlawful employment practice for a recipient government to make available benefits for the wives and families of male employees where the same benefits are not made available for the husbands and families of female employees; or to make available benefits for the wives of male employees which are not made available for female employees; or to make available benefits to the husbands of female employees, which are not made available for male employees.

(3) Any distinction between married males and married females and any distinction between unmarried males and unmarried females will be considered to be a distinction made on the basis of sex. Similarly, a recipient government must not deny employment to women with young children unless it has the same exclusionary policies for men; or terminate an employee of one sex in a particular job classification upon reaching a certain age unless the same rule is applicable to persons of the opposite sex.

(4) A recipient government may not refuse to hire men or women, or deny men or women a particular job because there are no separate restrooms or other separate facilities. The recipient government's policies and practices must assure that appropriate facilities are available for use by both sexes.

(5) Recipient governments may not deny any employee the right to any job, which the employee is qualified to perform, in reliance upon a State "protective" law that does not apply equally to both sexes.

(6) A recipient government shall not:

(i) Classify a job as being for males or for females.

(ii) Maintain or establish separate lines of progression, seniority lists, career ladders, tenure, systems, position descriptions or job requirements which are based on sex or which classify persons on the basis of sex.

(d) *Marital or parental status.* In any program or activity funded in whole or in part with entitlement funds:



(1) *Family status.* A recipient government shall not treat an employee or applicant for employment differently on the basis of sex in any employment action or policy because of the employee's or applicant's marital status or status as a parent. Such action may also not be taken with respect to pregnancy unless the recipient government can demonstrate that the pregnancy of the individual concerned prevents adequate job performance by that individual. In no event may a recipient government have a policy or take an action which benefits a person because of his or her status as head of household or principal family wage earner.

(2) *Pregnancy as a temporary disability.* A recipient government shall treat any temporary disability arising from pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom in the same manner as it treats any other temporary disability for all job related purposes. The term "job related purposes" includes commencement, duration and extensions of leave, payment of disability income, reinstatement or termination of employment, reinstatement pay rate and position, fringe benefits, accrual of seniority or other benefit of service, and promotion.

(e) *Sex as a bona fide occupational qualification.* Nothing in these regulations shall prohibit the hiring of employees of one sex if sex is a bona fide occupational qualification. A bona fide occupational qualification is only allowed where there is a reasonable factual basis to believe that all, or substantially all, of one sex are unable to perform the job in question. Further, the burden of demonstrating that sex is a bona fide occupational qualification for a given job rests on the recipient government.

#### § 51.55 Assurances required.

(a) *General.* In order to qualify for any payment for any entitlement period, each Governor of a State or each chief executive officer of a unit of local government shall, prior to the beginning of each entitlement period, execute to the satisfaction of the Secretary an assurance that all programs to be funded in whole or in part with entitlement funds will be conducted in compliance with the requirements of this subpart. Assurances required under this paragraph shall be submitted pursuant to § 51.10(b) and shall be in such form and detail as prescribed by the Secretary.

(b) *Failure to comply.* Any recipient government which fails to comply with paragraph (a) of this section shall have its entitlement payments withheld for the applicable entitlement period. Any recipient government to which a determination of noncompliance with paragraph (a) of this section has been made shall be entitled to notice and opportunity for hearing. However, notwithstanding § 51.59, no payments shall be made for the applicable entitlement period pending the outcome of such hearing.

#### § 51.56 Compliance information and reports.

(a) *Access to sources of information.* Each recipient government shall permit access by authorized representatives of the Office of Revenue Sharing and Department of Justice during normal business hours to such of its facilities, books, records, accounts, personnel, and other sources of information as may be relevant to a determination of whether the recipient government is complying with this subpart. Where any information required of a recipient government is in the exclusive possession of any other agency, institution, or person, and such agency, institution, or person fails or refuses to furnish this information, the recipient government shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(b) *Compliance reports.* Each recipient government shall keep such records and submit on request of the Secretary timely, complete and accurate compliance reports at such times, in such form, and containing such information, as the Secretary may determine to be necessary or useful to enable the Office of Revenue Sharing to ascertain whether the recipient government has complied or is complying with this subpart. Recipient governments shall make available on request of Office of Revenue Sharing officials, racial, ethnic, male/female, and national origin data showing the extent to which minorities and females are or will be beneficiaries of entitlement funds. In the case of any program under which a primary recipient government extends or will extend entitlement funds to any other secondary recipient, such secondary recipient shall submit such compliance reports to the primary recipient as may be necessary or useful to enable the primary recipient to carry out its obligations as a recipient government under this subpart. Each recipient government shall identify, on request of the Office of Revenue Sharing, any State or local agency which has been legally authorized to monitor its civil rights compliance activities.

#### § 51.57 Complaints and investigations.

(a) *Complaints.* Any person who believes anyone has been subjected to discrimination prohibited by this subpart, may personally or by a representative file with the Secretary a written statement setting forth the nature of the discrimination alleged and the facts upon which the allegation is based. No representative of a recipient government nor any of its agencies shall intimidate, threaten, coerce, or discriminate against any person or class of persons because of testimony, assistance, or participation in an investigation, proceeding, or hearing under this subpart.

(b) *Investigations.* The Secretary shall advise the chief executive officer of the recipient government of any complaint received pursuant to paragraph (a). If the Secretary has reason to believe that

the complaint shows that a recipient government has failed to comply with the provisions of this subpart, he will cause a prompt investigation to be made by the Office of Revenue Sharing, or other appropriate Federal or State agency, of the program or activity concerned. Such investigation may be made, if necessary, with the assistance of complainants or of the recipient government.

#### § 51.58 Compliance reviews and affirmative action.

(a) *Compliance reviews.* The Secretary shall monitor and determine compliance of recipient governments with the requirements of this subpart and of the Act. Compliance reviews will be undertaken from time to time, as appropriate, at the discretion of the Secretary.

(b) *Affirmative action.* Any recipient government which has been determined to be in violation of this subpart must take reasonable steps to remove or overcome the consequences of such discrimination where a practice or usage has in purpose or effect tended to exclude individuals from participation in, deny them the benefits of, or subject them to discrimination under any program or activity to which this subpart applies, on the ground of race, color, national origin, or sex. The Secretary will, upon a finding of noncompliance, determine the steps necessary to remove the noncompliance and will determine a timetable for implementing those steps.

#### § 51.59 Procedure for effecting compliance.

(a) *General.* Whenever the Secretary determines that a recipient government has failed to comply with this subpart, he shall notify the chief executive officer of the recipient government and the Governor of the State in which the government is located of the noncompliance and shall request the Governor to secure compliance. If, within a reasonable period of time not to exceed 60 days, the Governor fails or refuses to secure compliance, the Secretary is authorized:

(1) To refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted;

(2) To initiate an administrative hearing pursuant to the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d); or

(3) To take such other action as may be provided by law.

(b) *Administrative hearing.* An order of an administrative law judge to withhold temporarily, to repay, or to forfeit entitlement funds will not become effective until:

(1) There has been an express finding on the record, after notice and opportunity for hearing, of a failure to comply with a requirement of this subpart.

(2) At least 10 days have elapsed from the date of the order of the administrative law judge. During this period additional efforts will be made to assist the recipient government to comply with this subpart and to take appropriate corrective action.



(3) Thirty days have elapsed after the Secretary has filed with the Committee on Government Operations of the House of Representatives and the Committee on Finance of the Senate a full written report of the circumstances and the grounds for such action. The time limitation of subparagraphs (2) and (3) can run concurrently.

(4) The Secretary has notified the recipient government that, in addition to whatever sanctions have been imposed by the administrative law judge, the Office of Revenue Sharing shall withhold payment of all entitlement funds until such time as the recipient government complies with the order of the administrative law judge. Further, the amount of the forfeiture or repayment of entitlement funds, if any, will be limited to the program or activity in which the non-compliance has been found. Such funds shall be collected by a downward adjustment to future entitlement payments and will be deposited in the general fund of the Treasury. If the Secretary determines that adjustment to future entitlement payments is impracticable, he may refer the matter to the Attorney General for appropriate civil action to require payment of such amount to the United States.

(c) *Withholding pursuant to court action.* The Secretary may immediately withhold the payment of entitlement funds to a recipient government pending the entry of an affirmative action order by a Federal court if:

(1) A violation of the nondiscrimination provision of this subpart or the Act (Sec. 122) was alleged in the complaint before the court;

(2) The court finds that the recipient government has violated the nondiscrimination provision of this subpart or the Act; and

(3) The question of withholding has not been resolved by the court.

(d) *Action by Attorney General.* Nothing in these regulations is intended to preclude the United States, in a civil action initiated by the Attorney General of the United States pursuant to § 122 (c) of the Act, from seeking, or a court from granting, an order to require the repayment of funds previously paid under the Act, or an order that the payment of funds under the Act be terminated or withheld. In addition, the Secretary may initiate the procedure provided for in paragraph (a)(2) of this section against a recipient government which has been named as a defendant in such civil action if it is the Secretary's judgment, after consultation with the Attorney General, that an administrative withholding of entitlement funds is an appropriate measure to ensure compliance with this subpart.

#### § 51.60 Hearing procedures.

Whenever a procedure which requires notice and opportunity for a hearing is invoked by the Secretary to effect compliance under this subpart, the procedural regulations promulgated in subpart G of this part shall govern.

#### § 51.61 Jurisdiction over property.

The Office of Revenue Sharing shall have jurisdiction over any program or activity for purposes of this subpart for as long as a recipient government retains ownership or possession of any real or personal property or any interest therein, which was purchased in whole or in part with entitlement funds for the applicable program or activity. Further, if such property is transferred to another party, the Office of Revenue Sharing will retain jurisdiction over the recipient government for purposes of this subpart for as long as the property is used to provide benefits similar to those which were provided by the property before the transfer.

#### § 51.62 Delegation.

The Secretary may assign to officials of the Department, officials of other departments or agencies of the Federal government, or officials of State agencies, responsibilities and authority to effectuate the purposes of this section including the achievement of effective coordination within the executive branch in the implementation of Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 2000e). Such delegation shall be made only with the consent of the affected departments and agencies, and in no event will the Secretary delegate authority to review the initial decision of an administrative law judge to officials outside the Department.

[FR Doc. 75-28768 Filed 10-22-75; 11:04 am]

### Title 40—Protection of the Environment

#### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 446-5]

### PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

#### Indiana—Approval of Plan Revisions

Pursuant to section 110 of the Clean Air Act, the State of Indiana submitted to the Administrator of the United States Environmental Protection Agency an implementation plan on January 31, 1972 to achieve the National Ambient Air Quality Standards. The plan was approved by the Administrator on May 31, 1972 (37 FR 10842) with several exceptions. Subsequent to the May 31, 1972 action, the State submitted amended sulfur dioxide, hydrocarbon, and carbon monoxide regulations for stationary sources which the Administrator approved on May 14, 1973 (38 FR 12698).

Recently, the Indiana Air Pollution Control Board after public notice and hearing adopted revisions to regulations APC-13, APC-15, APC-16, and APC-17, and adopted new regulations APC-18, APC-20, and APC-22. On March 7, 1974, the Technical Secretary of the Air Pollution Control Board (APCB), acting for the Governor of Indiana, submitted to the Regional Administrator new regulations APC-18 and APC-20. On October 3, 1974 the Technical Secretary submitted revised regula-

tions APC-16, APC-17, and new regulation APC-22. On November 8, 1974, the Technical Secretary submitted revised regulations APC-3 and APC-15, and on December 5, 1974, submitted a revised APC-13. With the revised regulations, the State submitted a technical support document describing the rationale for the changes to the regulations.

On May 2, 1975 the Regional Administrator of the U.S. EPA, Region V, published for public comment these proposed revisions to the regulations contained in the Indiana State Implementation Plan (SIP). The regulatory changes affect the control of five criteria pollutants: total suspended particulates, sulfur dioxide, hydrocarbons, nitrogen oxides, and carbon monoxide. Regulations establishing timetables for particulate control (APC-18) and controlling fugitive dust (APC-20) were included in the notice. Most significant, however, was a regulation (APC-22) which classifies counties within Indiana according to the need for control of emissions from sources located in each county, in fact, a wholesale revision of the applicable control strategy for all pollutants.

In the rulemaking proposal, eleven counties in Indiana were singled out for being unacceptably classified by APC-22 for purposes of sulfur dioxide controls set forth in APC-13, based on EPA's preliminary review of the State's technical support document. The EPA review of the technical support document supporting the proposed rulemaking indicated that an "A" Classification for those counties might be more appropriate. Public utility companies have submitted air quality, emission and meteorological data to demonstrate that a "C" classification would be appropriate in most counties. As a result of a meeting between EPA and State officials, the State has undertaken a reassessment of the APC-22 classifications for the eleven counties based on a Federally approved methodology involving use of computerized dispersion modeling in which sources are examined for their impact on air quality. This work is currently under review in conjunction with other submitted data, by the regional office and final rulemaking action on APC-13 and pertinent portions of APC-22 will take place shortly.

This notice finalizes action on APC-3, APC-16, APC-17, APC-18, APC-20, and APC-22, insofar as it classifies counties for purposes of controlling total suspended particulates, carbon monoxide, and nitrogen dioxide. Final action on APC-13, APC-15, and the APC-22 classification of counties for sulfur dioxide and hydrocarbon control will be forthcoming.

New APC-3, the visible emissions regulation, varies from the approved regulation in several respects, the most significant of which is the introduction of a 15-minute exemption period in each 24-hour period. The power companies submitted comments to the effect that such an exemption is necessary for them when starting fires or cleaning units. Since sections 2(a) and 2(b) of APC-3



already provide an exemption to visible emission requirements for fuel-burning sources in such circumstances, this comment appears to be superfluous. Generally, visible emission regulations correspond to the surveillance requirement set forth at 40 CFR 51.19(c) and section 3 of APC-3 indicates that such was the intent of Indiana. However, certain intermittent sources, such as coke batteries and roof monitors, may cause gross visible emissions and remain within the exempted time limits. For such sources at least, APC-3 would be ineffective and impractical as a surveillance technique if indeed it could be deemed available. Such being the case, it is incumbent upon the State to demonstrate that failure of intermittent sources to comply with APC-3 during the exempted time period would not result in an interference with attainment and maintenance of the standards [40 CFR 51.13(e)(1)]. The State has failed to present such a demonstration. Accordingly, APC-3 must be disapproved to the extent that the 15-minute exemption provision in section 1 fails to meet the requirements of §§ 51.13 (e)(1) and 51.19(c). It should also be noted that EPA will not regard itself as bound by exemptions granted by the Board pursuant to section 2(c). Such exemptions must be considered on a case by case basis for impact on attainment and maintenance of the standards.

Other comments from industry and the utilities criticized APC-3 for vagueness and generally conveyed a need for clarification of terms. EPA is concerned about the confusion caused by the regulation but believes most difficulties can be resolved by administrative resolution. Such resolutions to the extent that EPA considers them substantive changes would need to be reviewed by EPA for consistency with the implementation plan before becoming effective.

New APC-16, control of carbon monoxide (CO) emissions from stationary sources, in conjunction with the classification of counties in APC-22 for purposes of CO control, effectively removes all existing stationary sources of CO from the applicable control strategy. A review of the last several years of air quality data showed few violations of the standards. The small number of stationary CO sources in Indiana and the fact that the bulk of CO emissions are from mobile source initiated are reasons for EPA's approval of this strategy revision. APC-16 will require control of new stationary CO sources to assist in maintenance of the standards.

New APC-17, control of nitrogen dioxide (NO<sub>2</sub>) emissions from stationary sources, in conjunction with the classification of counties in APC-22 for purposes of NO<sub>2</sub> control, effectively removes all stationary sources of NO<sub>2</sub> from the applicable control strategy. EPA's reclassification of AQCR's placed all but the Indiana portion of the major metropolitan Chicago AQCR in attainment status (39 FR 16344, May 8, 1974). The available air quality data in the North-

west Indiana Area indicates no standard violations. Accordingly, EPA will approve this strategy revision. APC-17 will require control of new stationary NO<sub>2</sub> sources to assist in maintaining the standard, and in reference to fossil fuel generators is consistent with Federal New Source Performance Standards for emissions of nitrogen dioxide (40 CFR Part 60.44).

APC-18 represents a series of compliance schedules affecting the various sources of particulate matter. In all cases, the final compliance date was on or before May 31, 1975. Since approval of APC-18 at this late date would be purely academic, EPA will request the State to withdraw the regulation as a plan revision in accordance with comments submitted by the Technical Secretary of the APCB.

APC-20 addresses the control of fugitive dust emissions. Comments received from industry indicated a general dissatisfaction with the regulation because of vagueness and unenforceability. While EPA recognizes the desirability of including a fugitive dust emission limitation in an air quality implementation plan, the State has been advised of our reservations concerning the inclusion of a vague or ambiguous regulation in the Indiana Implementation plan. State officials have indicated a willingness to clarify the ambiguities. In the interim EPA will approve APC-20 with the exception of section 2(d) relating to visible emission violations. State personnel have indicated that no person has ever been cited for violation solely of section 2(d). Accordingly, EPA will disapprove section 2(d) of APC-20 as unenforceable. This rulemaking will be effective immediately because no additional substantive requirements are imposed on parties.

APC-22 classifies all counties in the State as A, B, or C for each criteria pollutant. While EPA is not satisfied with the State's technical support of classifications for CO and NO<sub>x</sub>, the priority county ratings for these two pollutants will be approved for reasons discussed above. Classifications for particulate, however, are unsupportable for the following reasons:

- (1) Data to support the regulation is inadequate;
- (2) Attainment of the National Ambient Air Quality Standards has not been addressed;
- (3) Maintenance of the National Ambient Air Quality Standards has not been addressed.

Thus, this classification fails to meet the requirements of 40 CFR 51.3 and accordingly is disapproved.

Final rulemaking action on the ozone and sulfur dioxide county classifications will take place at the same time as actions on APC-15 and APC-13.

With the exception of the above-noted disapproval actions and material returned to the State or held in abeyance pending further review, the proposed revisions meet the substantive and procedural requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 and

are hereby approved as revisions to the Indiana Implementation Plan, effective immediately.

A technical support document discussing the background for the decisions noted above is available for inspection in the Region V office of the U.S. Environmental Protection Agency, 230 South Dearborn, Chicago, Illinois 60604, and the Indiana State Air Pollution Control Board, State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

(42 USC 1857c-5(a))

Dated: October 21, 1975.

JOHN QUARLES,  
Acting Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

1. Section 52.770 is amended by adding paragraph (d) (2) as follows:

§ 52.770 Identification of plan.

(d) \* \* \*

(2) March 7, 1974, October 3, 1974 and November 8, 1974 the Technical Secretary of the Air Pollution Control Board acting for the Governor of Indiana.

2. Section 52.771 is amended by adding paragraph (b) as follows (the existing unlettered paragraph becomes paragraph (a)):

§ 52.771 Classification of regions.

(b) \* \* \*

(b) The requirements of 51.3(a) of this chapter are not met by the classification of counties in APC-22 for the purposes of attainment and maintenance of the total suspended particulate ambient air quality standards.

3. Section 52.776 is amended by adding paragraph (c) as follows:

§ 52.776 Control strategy. Particulate matter.

(c) \* \* \*

(c) APC-3 of Indiana's Air Pollution Control Regulations (visible emission limitation) is disapproved insofar as the phrase "for more than a cumulative total of 15 minutes in a 24-hour period" will interfere with attainment and maintenance of particulate standards.

4. Section 52.781 is amended by adding paragraph (e) as follows:

§ 52.781 Rules and regulations.

(e) \* \* \*

(e) Section 2(d) of APC-20, Fugitive Dust Emissions, is disapproved because it is unenforceable within the terms of the regulation.

5. Section 52.792 is added as follows:

§ 52.792 Source surveillance.

(a) The requirements of 51.19(c) of this chapter are not met by the phrase "for more than a cumulative total of 15 minutes in a 24-hour period" contained in Section 1 of APC-3 of the Indiana Air Pollution Control Regulations.

[FR Doc.75-28779 Filed 10-24-75;8:45 am]



# **Title 41—Public Contracts and Property Management**

## **CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS**

[FPMR Amdt. E-172]

### **PART 101-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES**

#### **Agency Statement That ADP Resources Have Been Screened**

This amendment requires Federal agencies to state that all available Federal sources of automatic data processing equipment and resources have been screened before initiating an agency procurement request.

Paragraph (a), (b) and (c) and the note of § 101-32.404 is amended to read as follows:

#### **§ 101-32.404 Request for procurement action.**

(a) Contain the name and telephone number of an individual within the agency who will act as the point of contact with GSA;

(b) Be accompanied by a justification to support negotiated procurement when such procurement is being accomplished. (This justification is for use by GSA when GSA effects the procurement. If GSA determines that procurement will be accomplished by the agency, the justification will be returned along with the delegation of authority for use by the agency in effecting the procurement); and

(c) Include a statement that in accordance with the requirements of Subpart 101-32.2 and Subpart 101-32.3 available ADP resources have been screened and no ADP resources are available to satisfy the user's requirements.

Note: When telecommunications are involved, agencies shall submit documentation as prescribed in Part 101-35.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

**Effective date.** This regulation is effective October 28, 1975.

Dated: October 15, 1975.

ARTHUR F. SAMPSON,

Administrator of General Services.

[FR Doc. 75-28762 Filed 10-24-75; 8:45 am]

[FPMR Amdt. E-173]

### **PART 101-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES**

#### **ADP Sharing Program**

This amendment (1) clarifies the definition of ADPE as used in this subpart and the requirement to screen existing Federal resources before acquiring ADP time or services and (2) illustrates the June 1975 editions of GSA Form 2068, Request for ADP Service, and GSA Form 2068-A, Quarterly Report of ADP Service. The table of contents for Part 101-32 is amended to add new and revised entries as follows:

101-32.203-2 Authorization for commercial procurement.

101-32.203-4 Reports.

1. Sections 101-32.201(b)(1), 101-32.203-1, 101-32.203-2 and 101-32.203-3 (a)(3) and (b) are revised to read as follows:

#### **§ 101-32.201 Definitions.**

(b) \* \* \*

(1) Automatic data processing equipment (ADPE). This includes general purpose electronic data processing equipment (EDPE), computer output microfilm (COM) equipment, punchcard accounting machines (PCAM or EAM), and source data automation (SDA) equipment irrespective of use, application, or source of funding. This also includes ADPE built to Government specifications.

#### **§ 101-32.203-1 ADP sharing procedures.**

Federal agencies shall not initiate the process of selecting and acquiring ADP time or services from commercial sources unless it is first determined that the required ADP capability cannot be met satisfactorily by utilizing existing Federal ADP resources or established GSA mandatory contractual resources. Federal agencies shall first attempt to satisfy their ADP requirements by screening resources of other ADP units in their vicinity. If the result of the screening is unsuccessful, the requirement shall be referred to the appropriate ADP sharing exchange for assistance in locating suitable Federal ADP resources and in making the necessary arrangements for sharing. Requests for assistance may be made by mail, telephone, teletypewriter, or personal contact. GSA Form 2068, Request for ADP Service (illustrated at § 101-32.4902-2068), shall be used for mail requests.

#### **§ 101-32.203-2 Authorization for commercial procurement.**

ADP units in 50 States and the District of Columbia shall defer obtaining ADP time or services from a commercial source pending compliance with § 101-32.203-1 and review of established GSA mandatory contractual resources. A GSA Form 2068, approved by a GSA ADP sharing exchange, is used to notify requestors when no existing Federal ADP resources are available to satisfy their requirements. (See Parts 101-35 and 101-36 respectively, if telecommunications or public utilities services are required.)

(a) An approved GSA Form 2068 constitutes a delegation of procurement authority to the requesting agency to acquire ADP services from commercial sources. Without an approved GSA Form 2068, agencies do not have authority to contract for such services. However, when an agency does receive an approved GSA Form 2068, the 2068 does not constitute procurement authority to acquire from a sole source. Agencies are required to comply with the provisions of §§ 1-

1.301-1 and 1-3.210 for guidance relating to competition in procurement.

(b) Before authorizing commercial procurement of ADP services, GSA will review the GSA Form 2068 and other available documents for the type of proposed procurement, its requirements specifications, and its evaluation and selection provisions in order to promote overall Government economy and efficiency.

(c) If a request for ADP services will or may result in the Government's acquiring title to general-purpose ADP equipment or proprietary software, GSA will process the proprietary software and equipment portions of the request as an Agency Procurement Request (APR) in a manner similar to the method described by Subpart 101-32.4.

(d) Federal agencies must determine that existing Federal ADP resources cannot satisfy their requirements for ADP equipment, as specified in § 101-32.303-2, before submitting an APR. Requirements for submission and processing of an APR are in §§ 101-32.404 and 101-32.405.

(e) If software to satisfy an agency requirement cannot be discovered by screening Government resources, as required by § 101-32.203-1, an APR may be submitted to procure proprietary software, as specified in § 101-32.403-2. Software development, in contrast to proprietary software, in being, is an ADP service and as such is subject to the provisions of § 101-32.203-1, above.

#### **§ 101-32.203-3 Exemptions.**

(a) \* \* \*

(3) ADPE maintenance services. Acquisition of ADPE maintenance services is governed by Subpart 101-32.4. Unique requirements pertaining to maintenance services are described in § 101-32.403-3.

(b) When Federal agencies desire to exempt ADP equipment (EDPE, COM, SDA, EAM, and PCAM) not specifically exempt in § 101-32.203-3(a) to avoid compromise of national security or defense or to ensure economy and efficiency, requests for such exemptions shall be submitted, with adequate justification, to the General Services Administration (GSA), Washington, D.C. 20405. ADP equipment to be exempted shall be identified by the ADP unit number prescribed in the reporting instructions implementing Federal Management Circular (FMC) 74-2, ADP Management Information System (ADP/MIS).

2. Section 101-32.203-4 is added to read as follows:

#### **§ 101-32.203-4 Reports.**

ADP sharing and use of commercial ADP services shall be reported as specified in Subpart 101-32.47. Interagency Report Control Number 1106-GSA-QU has been assigned to GSA Form 2068-A, Quarterly Report of ADP Service, in accordance with FPMR 101-11.11.

Sections 101-32.4902-2068 and 101-32.4902-2068-A are revised to illustrate the June 1975 editions of GSA Form 2068,



Request for ADP Service, and GSA Form 2068-A, Quarterly Report of ADP Service.

§ 101-32.4902-2068 GSA Form 2068, Request for ADP Service.

§ 101-32.4902-2068A GSA Form 2068-A, Quarterly Report of ADP Service.

NOTE: The forms illustrated in §§ 101-32.4902-2068 and 101-32.4902-2068-A are filed as part of the original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective October 28, 1975.

Dated: October 15, 1975.

ARTHUR P. SAMPSON,  
Administrator of General Services.

[FR Doc.75-28763 Filed 10-24-75;8:45 am]

#### Title 45—Public Welfare

### CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### PART 177—FEDERAL, STATE AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO VOCATIONAL STUDENTS AND STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

##### Special Allowances

Paragraph (3) of § 177.4(c), Special Allowances, which deals with the payment to lenders of the allowances authorized by section 2 of the "Emergency Insured Student Loan Act of 1969" (Public Law 91-95) is amended to provide for the payment of such an allowance for the period July 1, 1975, through September 30, 1975, inclusive.

In light of the directives in the Emergency Insured Student Loan Act of 1969 with respect to the factors that the Secretary of Health, Education, and Welfare is to consider and the officials with whom he is to consult in setting the rate of the special allowance, and since a comment period would cause delay of at least 30 days, following each quarterly 3-month period, it has been determined pursuant to 5 U.S.C. 553 that the solicitation of comment as to the rate of the special allowance for any particular quarter is both impracticable and contrary to the public interest.

Effective Date. Pursuant to Section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

Section 177.4(c) (3) is amended as follows:

§ 177.4 Payment of interest benefits, administrative cost allowances and special allowance.

(c) Special allowances.

(3) Special allowances are authorized to be paid as follows:

(xxv) For the period July 1, 1975, through September 30, 1975, inclusive, a special allowance is authorized to be paid in an amount equal to the rate of 2½ percent per annum of the average unpaid balance of disbursed principal of eligible loans.

(Sec. 2, 83 Stat. 141)

(Catalog of Federal Domestic Assistance No. 13.460 Guaranteed Student Loan Program)

Dated: October 10, 1975.

T. H. BELL,  
U.S. Commissioner of Education.

Approved: October 22, 1975.

DAVID MATHEWS,  
Secretary of Health,  
Education, and Welfare.

[FR Doc.75-28959 Filed 10-24-75;8:45 am]

#### Title 46—Shipping

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-158]

#### PART 66—GENERAL PROVISIONS

##### Ports of Documentation

The Coast Guard recently published rules in the FEDERAL REGISTER changing the names and boundaries of certain Marine Inspection Zones. Specifically, the rule published in the Tuesday, August 24, 1971, FEDERAL REGISTER (36 FR 16577) amended boundaries within the Ninth Coast Guard District, the rule published in the Wednesday, May 15, 1974, FEDERAL REGISTER (39 FR 17312) amended boundaries within the Thirteenth Coast Guard District, and the rule published in the Monday, July 7, 1975, FEDERAL REGISTER (40 FR 28451) amended names and boundaries within the Seventeenth Coast Guard District.

46 CFR Subpart 66.05 contains a list of documentation ports, indexed by Coast Guard District and Marine Inspection Zone. These amendments merely update Subpart 66.05 to reflect changes already accomplished by the separate rulemaking actions cited above.

Since these amendments are matters relating solely to agency organization, they are exempt from the notice of proposed rulemaking requirements of 5 U.S.C. 553(b) (3) (A).

In accordance with the foregoing, 46 CFR Subpart 66.05 is amended as follows:

##### § 66.05-1 [Amended]

1. Section 66.05-1 is amended as follows:

a. Under the heading "Ninth Coast Guard District" delete the:

(1) "Ludington" Marine Inspection Zone and "Muskegon, Mich." Port of Documentation.

(2) "Milwaukee" Marine Inspection Zone and "Milwaukee, Wis." Port of Documentation.

(3) "Oswego" Marine Inspection Zone and "Cape Vincent, N.Y.", "Ogdensburg, N.Y.", and "Oswego, N.Y." Ports of Documentation.

b. Under the heading "Ninth Coast Guard District" add:

(1) "Milwaukee, Wis." and "Muskegon, Mich." to the "Ports of Documentation" column under the Chicago Marine Inspection Zone.

(2) "Cape Vincent, N.Y.", "Ogdensburg, N.Y.", and "Oswego, N.Y." to the "Ports of Documentation" column under the Buffalo Marine Inspection Zone.

c. Under the heading "Thirteenth Coast Guard District" delete the:

(1) "Aberdeen, Wash." Port of Documentation under the Seattle Marine Inspection Zone.

d. Under the heading "Thirteenth Coast Guard District" add:

(1) "Aberdeen, Wash." as a Port of Documentation under the Portland Marine Inspection Zone.

e. Under the heading "Seventeenth Coast Guard District" delete "Juneau" as a Marine Inspection Zone and insert "Southeast Alaska" in place thereof.

(14 U.S.C. 633; 23 Stat. 118 (46 U.S.C. 2); 80 Stat. 937 (49 U.S.C. 1655(b) (1)); 49 CFR 1.46 (b)).

Effective date. These amendments become effective on November 26, 1975.

Dated: October 17, 1975.

E. L. PERRY,  
Vice Admiral, U.S. Coast Guard  
Acting Commandant.

[FR Doc.75-28820 Filed 10-24-75;8:45 am]

#### Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-1151]

#### PART 0—COMMISSION ORGANIZATION

##### Delegations of Authority

Adopted: October 15, 1975; Released: October 21, 1975.

In the matter of amendment of Part 0 of the Commission's rules with respect to delegations of authority to the Chief, Common Carrier Bureau.

1. The Commission has reviewed the delegations of authority to the Chief, Common Carrier Bureau and has decided that the public interest would be served by amending § 0.291(a) (1) to permit the Chief, Common Carrier Bureau to Act on formal and informal radio applications and section 214 applications for common carrier services (including all marine and aeronautical applications) which are subject of a petition to deny. This amendment will permit disposal of applications at staff level in accordance with established policy and precedent unless a particular matter warrants referral to the Commission.

2. Authority for the adoption of this Order is contained in Sections 4 (i) and (j) and 5(d) of the Communications Act. Since it relates to internal Commission management, practices and procedure, and because the early implementa-



tion of this change will expedite the transaction of public business, compliance with the notice and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, is not required.

3. Accordingly, it is ordered, that effective § 0.291(a)(1) of the rules is amended in the manner set forth below effective October 28, 1975.

Adopted: October 15, 1975.

Released: October 21, 1975.

(Secs. 4, 303, 307, 48 Stat. as amended, 1068, 1082, 1083; 47 U.S.C. 134, 303, 307.)

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 0.291, paragraph (a)(1) is amended to read as follows:

§ 0.291 Authority delegated.

(a) Authority concerning applications.  
(1) Authority to act on any formal and informal radio applications and Section 214 applications for common carrier services (including all marine and aeronautical applications) which are in hearing status or where the estimated cost of construction (or value of radio facilities where an assignment or transfer of facilities is involved) is in excess of \$10 million or the annual rental is in excess of \$2 million. (The only exception to these monetary limitations will be special temporary authorizations in the event of extraordinary circumstances requiring the immediate restoration or institution of public service.)

[FR Doc. 75-28833 Filed 10-24-75; 8:45 am]

[FCC 75-1143, Docket No. 19995 RM-2275, RM-2376; Docket No. 18785]

**PART 76—CABLE TELEVISION SERVICE**  
**Network Program Exclusivity Protection by**  
**Cable Television Systems**

Adopted: October 8, 1975; Released: October 20, 1975.

In the matter of: amendment of Part 76 of the Commission's rules and regulations with respect to network program exclusivity protection by cable television systems.

1. On April 3, 1975, the Commission adopted its *First Report and Order* in Docket 19995, FCC 75-413, 52 FCC 2d 519 (1975) (hereinafter referred to as the *First Report and Order*). That action, which revised Subpart F of the Rules with respect to network program nonduplication protection on cable television systems, became effective on May 23, 1975. Petitions for reconsideration of the *First Report and Order*, filed pursuant to § 1.106 of the Rules, have been

submitted by both broadcasting and cable television interests.<sup>3</sup>

2. In general, petitioners representing cable television interests argued that the *First Report and Order* continues unwarranted restrictions on cable television system operators. The National Cable Television Association (NCTA) submits that the Commission provided no factual basis nor possesses any data supporting the establishment of a 55-mile zone of protection for smaller markets, a minimal 1,000 subscriber exemption, or continued reliance on adverse economic impact as the underlying reason for continuing nonduplication restrictions. Without such data, NCTA argues that the Commission must reconsider these matters and eliminate the 55-mile secondary zone of protection, increase the small system exemption to a significantly higher figure and eliminate each of the nonduplication restrictions that is founded on the premise of adverse economic impact to television broadcasting. It should be noted that much of NCTA's petition is devoted to a recitation of its attempt to obtain certain information from the Commission pursuant to the Freedom of Information Act and the Cable Television Bureau's denial of that request.<sup>4</sup>

3. Petitioners representing broadcast interests generally object to the new rules, contending that they are arbitrary and will significantly reduce the area within which television stations are entitled to nonduplication protection. The National Association of Broadcasters (NAB) suggests that the Commission's "drastic overhaul" of the entire scheme of nonduplication protection simply cannot be justified. Aside from an overall dissatisfaction with the rules, most petitioners have expressed specific objections to the new provisions and submitted alternative proposals for the Commission's consideration.

4. Many petitioners have restated their previously expressed views that the nonduplication rules should either remain as they have been since 1972, or conversely, that they should be abolished

<sup>3</sup> The following parties filed petitions for reconsideration: National Association of Broadcasters (NAB), Association of Maximum Service Telecasters (AMST), National Cable Television Association (NCTA), several groups of television station licensees, a group of "76 CATV Companies," Black Hawk Broadcasting Co., Gross Telecasting, Inc., Capital Cities Communications, Inc., Golden Empire Broadcasting Co., Sacramento Valley Television, Inc., Viacom, Inc., Spartan Broadcasting Co., Springfield Television Broadcasting Corp., and KIRO, Inc. Throughout this Memorandum Opinion and Order on Reconsideration, the terms "nonduplication" and "exclusivity" are used interchangeably.

<sup>4</sup> Subsequently, the Commission partially granted NCTA's request, and materials were released. An appeal thereof is pending in the United States District Court for the District of Columbia.

entirely. Despite general assertions that the revisions we have adopted either go too far in reducing protection for television stations or do not go far enough, no petitioner has presented any persuasive evidence that fundamental changes in the structure of the new rules are needed. And, while some petitioners have submitted data unique to their own situations which purport to demonstrate that the new rules will adversely affect them, we cannot permit a wholesale reconsideration of our rules to follow the submission of such untested data. We believe that such showings can be most usefully considered in our special relief and waiver processes, where the affected parties can concentrate their arguments in a specific factual context.<sup>5</sup> We shall now direct our attention to the specific issues posed by the petitions for reconsideration.

**SPECIFIED ZONES OF NONDUPLICATION  
PROTECTION**

a. Comments. 5. Many broadcasting interests contend that the most objectionable aspect of the new rules is the substitution of fixed 35 and 55 mile zones of nonduplication protection for the contour priority approach which had been in effect for more than nine years. This new approach, they argue, substitutes arbitrary concepts for the sound theoretical underpinnings of the old rules and leads to arbitrary and capricious consequences. Capital Cities Communications, Inc. (CCC) contends that the new rules alter the competitive relationship between local and distant network affiliates heretofore determined by the coverage and drawing power of their off-the-air signals. They suggest that the difficulties that may have been caused by the frequent disparities between predicted and actual signal strength contours can be eliminated simply by specifying that a station's predicted contours will be controlling for nonduplication purposes, and that claims for coverage supported by actual as opposed to predicted contours should not be considered. CCC further argues that the Commission's analysis of economic need runs contrary to the "fair, efficient, and equitable" standard for making television channel allocations contained in Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. § 307(b)). For the sake of protecting less efficient stations at the expense of more efficient stations, they argue, the Commission has undercut the maximum

<sup>5</sup> Recent decisions involving applications for special relief from our new nonduplication rules include *WHAG-TV, Inc.*, FCC 75-1117, — FCC 2d — (1975) and *WCEE-TV, Inc.*, FCC 75-1118, — FCC 2d — (1975). In the latter case, a request for waiver of Section 76.92 of the Rules was denied, whereas, in *WHAG-TV, Inc.*, the Commission decided that a waiver of Section 76.92 would serve the public interest in view of WHAG-TV's operating conditions.



service objectives of Section 307(b). They maintain that the desirability, however great, of providing additional nonduplication protection to weaker stations does not provide a justification for reducing a stronger station's area of protection where there is no weaker station to protect. And while it may be desirable to provide a measure of economic support to network affiliates which operate on less desirable channels or with less than the maximum permitted facilities, it does not follow that this goal must or should be achieved by eliminating all non-duplication protection beyond the 35-mile zone for stations operating on the better channel allocations or with maximum facilities.

6. Golden Empire Broadcasting Company asserts that the modifications in the cable network nonduplication rules adopted in this proceeding reflect the Commission's misapprehension of the environment in which small market television stations must operate and the negative effect which the continuing fractionalization of television audiences in such markets has on the economic base which supports broadcast service. They argue that in small television markets, where populations are sparse and widely diffused, stations must serve a large area in order to provide national and regional advertisers with sufficient audiences to justify the cost of advertising over the station. They state that in markets such as Chico-Redding, California, it is literally true that every television household counts. While the Commission's purpose in adopting these changes in the network program exclusivity rules may be reasonable enough (e.g., to simplify procedures, expedite actions on exceptions, and eliminate unnecessary burdens on cable systems), Golden Empire suggests that the effect of those changes on small market stations will be quite harmful. The net effect of the new rules is, they say, to favor the distant market station over the local small market station while at the same time eliminating a substantial degree of the protection to which the local station would otherwise be entitled. No reason, they argue, is given to justify such favoritism.

7. Golden Empire, Gross Telecasting and others suggest that the adverse effects of the new rules can be rectified by returning to the predicted signal contour priorities for stations located in markets below the major television markets. To accommodate this exception with specified zones of the new rules, they propose a modification of our new priorities to provide smaller market stations with nonduplication protection throughout their predicted Grade B contours, except where the B contour overlaps with the 35 mile zone of a major market station. In the areas of overlap, both stations would receive equal priority. As an alternative, Golden Empire suggests that the "Primary Zone" of a small market station should be 60 miles and the "Secondary Zone" extended to 90 miles. Furthermore, since many stations have transmitter sites located at some distance from the

reference point of community of license, the Commission should also avoid the inevitable anomalies arising from this fact by basing program exclusivity on the composite outlines of zones calculated from both the reference point of the station and its transmitter site.

8. The National Cable Television Association (NCTA) asks the Commission to reconsider the studies submitted in their original comments in this proceeding, which, they claim, clearly demonstrate that there is no need to exceed 35 miles as a zone of protection for smaller television markets. NCTA argues that the number of cable systems located within the 20 mile additional zone of smaller market stations that would be subject to the nonduplication rules would be small even in the most highly penetrated cable markets. It is submitted that this data indicates that there is no need to add 20 miles to a smaller television market station's zone of protection. In addition, NCTA remarks that the Commission, in the *First Report and Order*, characterized the previous nonduplication rules as being unduly complicated and restrictive and has publicized the new rules as remedying many of these problems. Unfortunately, NCTA suggests, the complexity of the rules and the magnitude of their restrictiveness have not, in fact, been reduced to any significant extent through the adoption of different specified zones for major and smaller television markets. NCTA contends that the new rules are, unquestionably, more complicated. The priorities of protection still persist, save that they are determined by a reference to fixed mileage zones rather than theoretical contours. Neither do the new fixed mileages, particularly the 55 miles smaller market zone, accomplish the deregulation of cable systems. NCTA argues that the Commission must make these new mileage zones both less complicated and more meaningful by establishing a uniform 35-mile zone for all markets.

b. Discussion. 9. Petitioners representing broadcast interests have argued that our revised rules will not provide the degree of nonduplication protection to which they are entitled. Some have maintained, in addition, that the Commission has neglected its mandate under Section 307 of the Communications Act by reducing the amount of protection that some stations will receive. However, before addressing those specific objections we think that a review of the general rationale underlying our nonduplication rules and their recent modifications would be appropriate.

10. The Commission is charged with the duty of furthering the objectives of the Communications Act to "make available, so far as possible, to all people of the United States, a rapid, efficient, nationwide and world-wide wire and radio communication service" (47 U.S.C. § 151) and "generally to encourage the larger and more effective use of radio in the public interest" (47 U.S.C. section 308 (g)). The Commission is also required to "make such distribution of licenses,

frequencies, hours of operation, and of power among the several states and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same" (47 U.S.C. § 307(b)). Pursuant to the mandate of the Communications Act, we have formulated a television station allocations policy grounded upon the establishment of a multiplicity of local (rather than regional) television broadcast outlets to serve the needs and interests of local communities. In 1962, in the case of *Carter Mountain Transmission Corp.*,<sup>\*</sup> the Commission first imposed program nonduplication restrictions on a cable television system in order to avoid the potentially damaging economic impact that the importation of distant duplicating signals could have on local stations. Subsequently, over a period of several years, various regulatory programs were developed to insure that the growth of cable television and the distribution of distant television signals would not unduly interfere with those Commission policies designed to foster the growth and economic stability of local television broadcast service.<sup>6</sup> The network nonduplication rules were adopted as a means of achieving that object. These rules provide a degree of economic protection for local television stations by requiring cable systems to delete network programming broadcast by a more distant television station when that station's programming simultaneously duplicates the programming broadcast by local stations. In this way, potentially damaging fractionalization of a local station's audience can be avoided and its revenue base can remain reasonably secure.<sup>7</sup>

11. Cable television systems have the inherent technological capability of carrying television signals over great distances, far beyond the service area of the local stations they carry. The network nonduplication rules—in conjunction with our signal carriage rules—constitute the primary means of protecting local network affiliated stations, and thereby our basic conventional television allocations policies, from the potentially harmful effects of unrestricted cable carriage of distant signals. Having determined that some measure of economic protection for local stations serves the public interest (i.e., the continuing vitality of local broadcast service) the issue

<sup>\*</sup> *Carter Mountain Transmission Corp.*, 32 FCC 459 (1962), aff'd sub nom. *Carter Mountain Transmission Corp. v. FCC*, 321 F.2d 359 (D.C. Cir. 1963), cert. denied, 375 U.S. 951 (1963).

<sup>6</sup> See *First Report and Order in Docket Nos. 14895 and 15233*, 38 FCC 683 (1965); *Second Report and Order in Docket Nos. 14895, 15233 and 15971*, 2 FCC 2d 725 (1966); *Cable Television Report and Order*, FCC 72-103, 36 FCC 2d 143 (1972); and the *Reconsideration of the Cable Television Report and Order*, FCC 72-530, 36 FCC 2d 320 (1972).

<sup>7</sup> The history of our various nonduplication rulemakings is related in the *First Report and Order in Docket 19995*, supra, pp. 519-524.



then becomes one of degree and balance: how much protection should be afforded to local stations without unnecessarily restricting the diversity and improved reception which cable can provide. Under our former rules, nonduplication rights were determined on the basis of a system which utilized predicted signal contours. For many reasons, as we stated in Paragraphs 53-56 of the *First Report and Order*, we determined that the continued use of signal contour priorities was unsatisfactory, that they tended to frustrate rather than promote the attainment of a sound and rational nonduplication policy. In sum, we found that use of contours provided certain stations with unnecessarily large zones of protection; created confusing overlaps between closely-located stations; provided small stations with zones of protection which were disproportionately small; and caused numerous difficulties in the administration and application of the rules. In revising the rules we have attempted to provide greater certainty in the application, administration and enforcement of nonduplication rights while eliminating the many difficulties and inequities fostered by a priority system based upon the use of predicted signal contours. Basically, our revised rules are intended to lessen the burdens the nonduplication rules place on cable systems and their subscribers while maintaining an adequate degree of protection for local television stations to insure their continued economic viability and provision of local broadcast service.

12. The adoption of fixed, specified zones for the administration of our nonduplication rules is consistent with our efforts to eliminate the use of predicted television signal contours throughout our cable television rules. See the *Report and Order in Dockets 16004 and 18052*, FCC 75-636, 53 FCC 2d 855 at 862 (1975). We have recently released a *notice of proposed rulemaking in Docket 20496*, FCC 75-635, 53 FCC 2d 1009 (1975), which proposes the substitution of fixed mileage zones for those cable television signal carriage rules now based on the use of predicted signal strength contours. Moreover, in the *Report and Order in Docket 19417*, FCC 75-819, 54 FCC 2d 265 (1975), we adopted rules placing limitations on a cable television system's use of distant signals when a home team blacks out local television coverage of its home game. A 35-mile specified zone has been utilized to define the zone of protection which will be afforded local sports events.<sup>7</sup>

13. Broadcast interests arguing against the adoption of specified zones of protection have essentially two contentions: (1) that the specified zones are arbitrary because they fail to take into account stations' actual service areas; and (2) that the new zones will substantially decrease the area of nonduplication protection which many stations now receive, producing in turn a significant adverse economic impact. Under the former

rules, a television station was entitled to protection within an area determined by its predicted Grade B signal contour. The new zones, particularly as they apply to stations located in the major television markets, will undoubtedly diminish the area of protection which some stations had previously claimed. However, we analyzed many television markets, especially those which are highly penetrated by cable operations. We concluded that although the area of protection would be decreased for a number of stations, the net loss in audience and advertising revenues would be insignificant in all but a handful of cases. We therefore found that stations simply do not need the degree of protection which they had been receiving under the previous rules. However, in the case of smaller market stations, we determined that a larger zone of protection was warranted in order to compensate for the differences in population density patterns which exist outside large urban areas. Therefore, an additional 20 mile zone of protection was provided for stations located in smaller markets. This additional zone should adequately protect the audience base of such stations.

14. Television stations are not inherently entitled to exclusive access to all of the television homes their signals may reach. The new specified zones, which largely parallel the zones which govern our signal carriage rules, will adequately protect the core of a station's market in which the majority of its viewers and ADI counties are located.<sup>8</sup> In our view a greater degree of protection is not needed. The adoption of larger specified zones, which several broadcasters have advocated, would be self-defeating in many instances. The use of larger zones (e.g., 60 or 75 miles) would actually tend to decrease the amount of nonduplication protection stations would be entitled to receive in the core of their markets. This phenomenon results from the fact that larger specified zones of protection will produce situations in which such zones overlap one another, thereby decreasing the extent of protection such zones are intended to assure. In contrast, the zones we have adopted will protect the heart of a station's market without producing such extraordinary consequences. Moreover, the new rules will eliminate the often confusing overlap of competing stations' predicted contours, thus insuring that each station will receive protection within those areas that lie in close proximity to its community of license. And, despite some contentions to the contrary, we have found that the new rules will provide increased protection for those UHF stations which had previously been overshadowed by the large contours of the powerful VHF stations.

15. While broadcasters have asserted that the Commission's new scheme of nonduplication protection is arbitrary,

<sup>7</sup> See § 70.67 of the Rules.  
<sup>8</sup> "ADI" or Area of Dominant Influence is a designation used in assigning counties to television markets, determined on the basis of audience surveys.

cable television system operators contend that the rules continue unjustified restrictions on cable operation. We realize, of course, that broadcasters would prefer to have as much economic protection for their programming as possible, while cable operators would favor little or no restriction on their ability to carry signals. And we assume that the public would prefer to have a maximum choice of signals and totally unhindered service. But parties to this proceeding have recognized that the issues underlying the nonduplication rules are extremely complex, and the myriad economic questions which must be considered in formulating any rational scheme of nonduplication protection do not lend themselves to easy answers. We believe that our response to these competing and often conflicting interests has adequately balanced the needs of one with the requirements of the other. To the extent that these rules, and in particular our formulation of specified zone, create either too much or too little protection, our special relief and waiver processes afford an appropriate administrative remedy. Any rule of general applicability will break down under the logic of unique and special circumstances, a truism which seems particularly apt when we contemplate the hundreds of television stations and thousands of cable systems these rules are designed to affect.

#### HYPHENATED MARKETS

a. *Comments.* 16. Many broadcast interests have requested reconsideration of our treatment of stations located in hyphenated television markets. They suggest that although the Commission has acknowledged the unique characteristics of hyphenated markets, the new rules permit drastic alterations in the area of nonduplication protection for stations located in such markets. NAB submits that the Commission's failure to accord hyphenated markets a distinctive form of protection must be reconsidered and remedied. They propose that the zone of protection for stations located in hyphenated markets be extended to the composite zone consisting of the appropriate mileage zones around each of the designated communities in that hyphenated market. To avoid undue extension of the composite zone into the zones of surrounding television markets, NAB further proposes that stations located in markets adjacent to the hyphenated market retain their right to nonduplication protection in areas where only the composite zone (as opposed to the zone centered on the station's actual community of license) of the hyphenated market station overlaps the adjacent out-of-market station's zone of protection. NAB maintains that it would be illogical for the Commission to recognize that all communities in hyphenated markets constitute the station's basic market area for signal carriage purposes, but not for nonduplication protection purposes. If the purpose of the rules is to protect a station's right to network exclusivity within its basic market area, the full extent of its market must be recognized. Thus, because hyphenated markets are



characterized by multiple population centers, all of which are served by individual market stations, they propose that nonduplication protection be provided in the composite zones of all designated communities of the hyphenated market. NAB asserts that its proposed solution would recognize the basic market area of hyphenated market stations without creating the overlap problem sometimes arising from such extended zones of composite protection.

For all stations located in the hyphenated market, the area within which it is entitled to nonduplication protection would include (1) the appropriate 35 or 55 mile zone surrounding its community of license, plus (2) the composite zone formed by the appropriate zones of each of the other designated communities in the market. However, in that portion of the composite zone beyond the zone of the station's community of license, the station would not be entitled to nonduplication protection as against a station located in a community not part of the hyphenated market whose zone overlapped the composite zone of the hyphenated market station. In such cases, the station located outside the hyphenated market would retain its right to nonduplication protection. Capital Cities Communications proposes that the Commission use the 35-mile zone as the basis for determining the first priority for providing nonduplication protection among affiliates of the same network, and continue to use predicted signal contours to establish nonduplication protection rights beyond the 35-mile zone. Under this proposal, there would be four priorities of protection, with the first being the 35-mile zone, the second being the station's predicted city grade contour, the third being the station's Grade A contour, and the fourth being the station's Grade B contour. With this modification, they suggest, the rules would achieve the Commission's primary objective—protection of smaller market local stations from the signals of larger market affiliates which overshadow the smaller market. Beyond the 35-mile zone, the superior signal scheme would remain in effect and would be used to establish nonduplication protection rights in areas where the local station has a superior predicted signal. This modification would maintain the integrity of existing off-the-air market patterns and would continue to recognize the Commission's long-standing objective of making cable viewing a neutral factor in the competition between network affiliates for circulation in the areas falling between their two cities. Capital Cities argues that this scheme would reduce the disparities in protection in hyphenated markets, since most hyphenated market stations would be entitled to nonduplication protection throughout the core of the market under one of the other protection priorities.

17. NCTA opposes any special consideration for hyphenated markets, arguing that the Commission's new exclusivity rules are not intended to protect tele-

vision markets, only individual television stations. They argue that it would be inappropriate to distinguish between stations located inside or outside of hyphenated television markets for purposes of the network program exclusivity rules, and that the appropriate forum to adjudicate claims that the new nonduplication rules work a unique hardship on a particular television station located in a hyphenated market is a special relief proceeding where the burden quite properly falls upon the television station seeking relief from these rules.

b. *Discussion.* 18. When we adopted our revised nonduplication rules we acknowledged that the replacement of a system of priorities based on signal contours with priorities established by fixed mileage zones would alter the areas of nonduplication protection for stations located in hyphenated television markets.<sup>9</sup> While we recognized that stations in hyphenated markets may be subject to somewhat unique problems, we found it unnecessary to accord such stations special zones of protection.<sup>10</sup> It is proposed by various broadcast interests that stations in hyphenated markets should be entitled to protection in the same composite zones which comprise the areas in which signal carriage is required. Without such protection, it is argued, a station's basic market will not be adequately protected and substantial losses of audience and revenues will result. Various alternative proposals have been suggested, all of which would provide substantially increased areas of protection for hyphenated market stations.

19. Before adopting the *First Report and Order*, we thoroughly considered the ramifications of single, rather than composite zones of protection for hyphenated market stations. We compared the amount of protection to which stations in such markets had previously been entitled under the old rules with protection that would be afforded under the new provisions and found that there would be no significant loss of audience or advertising revenues. We believe that such minimal impact is the consequence of the former use of signal contours for nonduplication priorities. In hyphenated markets the extensive overlap of signal contours of stations within the market resulted in relatively small areas of nonduplication protection for most stations. We have concluded that stations would receive approximately the same degree of protection under the new rules as they had received under our former provisions. Therefore, we determined that it was unnecessary to accord stations located in hyphenated markets any additional zone of protection. The data which has been submitted by various broadcast

<sup>9</sup> It should be noted that no television station in the United States is licensed to more than one community. The structure of hyphenated markets is a product of marketplace determinations by networks, advertisers and audience rating services.

<sup>10</sup> *First Report and Order in Docket 1995*, supra, at pp. 543-544.

petitioners is not sufficiently persuasive to convince us that we should depart from our previous determination in this matter. However, as we stated in the *First Report and Order*, we recognize that there are circumstances which may warrant a departure from the general application of our revised priorities. Such cases will be given full consideration in our special relief process.

#### REFERENCE POINT FOR ZONES OF PROTECTION

a. *Comments.* 20. A number of petitioners representing broadcast interests have asked that the new rules be modified to permit individual television station licensees to select either a station's community of license or the location of its transmitter as the reference point from which the zone of protection is measured. They note that although in most cases a station's transmitter is located in or near a station's community of license, in a significant number of cases the transmitter is located a substantial distance away. Due to various factors, usually patterns of population density, they assert that television licensees have sought to establish a signal coverage area which is not geographically centered on the community of license. They argue that requiring the reference point of the zone of protection to be the city of license rather than the transmitter site will, in some cases, cause a substantial shift in the zone of nonduplication protection from the areas previously protected under the predicted signal contour priorities. The zone of protection will no longer correspond to the station's actual coverage area, but will be an arbitrary and artificial zone which will not provide protection to the areas actually served by a local station. They suggest that the Commission permit television licensees whose station transmitters are not located in or near their communities of license to select either the specified reference point of their communities of license or their transmitter sites as the center point of their zone. The broadcasters state that this method has the advantage of avoiding arbitrary results while preserving all the benefits of a fixed mileage standard. Once the licensee has made his choice, they aver, the zone would be both easily determinable and permanent, and the Commission will not be confronted with numerous requests for special relief.

b. *Discussion.* 21. Although at first blush, the arguments for giving station licensees the opportunity to select either their community of license or their transmitter site as the reference point of their zone of protection appears to be an attractive option, we must reject such a proposal for several reasons. Television stations apply for and are granted licenses to provide television service to a particular community and its surrounding area. A station licensed to one community has a primary obligation to that community for purposes of both signal quality and community ascertain-



ment.<sup>11</sup> And while some stations have been permitted to identify themselves with more than one community, their primary obligation remains with the community of license. Generally, stations have been permitted, on request, to place their transmitters in locations other than their city of license to enable them to reach a larger audience than would be possible if they were required to locate the transmitter close to their community of license. While the erection of remotely located transmitters may increase the availability of station's signal in a particular area, it does not follow that stations should be entitled to exclusive access to television homes in the area of expanded coverage. Remotely located transmitters often operate from geographically favorable positions and at maximum permitted power. This often results in an extraordinarily large signal contour which greatly increases a station's total viewing audience and enhances its ability to attract advertising revenues. Under our new rules, stations will still be received in the same number of homes as before. They will simply no longer be entitled to exclusive access in cable television households outside their zone of protection.

22. The nonduplication rules serve to protect the core audience of a station, from which the bulk of its revenues is derived; and this audience for most stations is located in close proximity to its community of license. Therefore, in the vast majority of cases, use of the community of license as the reference point for the specified zones usually provides adequate protection of a television station's revenue base. Moreover, since the reference points for television stations have been fixed in our rules,<sup>12</sup> the specified zones for nonduplication can be determined without resorting to new maps or engineering studies which the use of a transmitter site option would require. The certainty of using established reference points will significantly assist the administration of the rules by the Commission and a readier comprehension of their rights and responsibilities by all parties concerned. Additionally, since more than one television station is licensed to operate in most television markets, permitting stations to select the reference point from which their specified zone is to be determined would almost surely result in an unnecessary and confusing complication for all parties. Nonetheless, television stations may be granted special relief upon a persuasive showing that they will be adversely affected by our general rule. In those situations where a transmitter is unusually distant from a station's community of license, we will consider alternative methods of measurement for the zone of protection, assuming of course that the petitioning station can show that the general rule will not adequately protect

the station's network programming.<sup>13</sup> As we administer these rules, additional exceptions will doubtless be considered in our special relief processes.

#### SIGNIFICANTLY VIEWED SIGNALS

23. Several parties have requested reconsideration of our rules with regard to signals that are significantly viewed within a cable community, but must be deleted under the nonduplication rules. In the *First Report and Order*, we recognize that there may be situations in which the network programming of certain significantly viewed signals should not be deleted when they are available off-the-air in a cable community. We further stated our intention to develop a standard by which we could properly determine whether deletion of a significantly viewed signal was warranted. Subsequently, on August 8, 1975, we released a *Further Notice of Proposed Rule Making in Docket 1995, FCC 75-922*, — FCC 2d — (1975), for the purpose of establishing a standard to prevent those signals commonly viewed in cable households from being blacked-out because of our mileage priorities. Our determination of such a standard awaits the completion of that proceeding.

#### MULTIPLE CHANNEL CARRIAGE

a. *Comments.* 24. Broadcast interests urge us to reconsider the multiple channel carriage rule and restore the right of broadcasters to insist on single channel carriage of their station's signal on cable systems. The Association of Maximum Service Telecasters (AMST) contends that there is no sound justification for the elimination of the right of a higher priority station to insist that its signal not be carried on more than one cable channel during network nonduplication periods. AMST maintains that cable operators need not and do not invariably leave the lower priority channel black when network nonduplication with single channel carriage is being provided. They suggest that a blacked-out channel can be and has been used to notify viewers that the network programs which they might expect to see on that channel can be found on the channel on which the higher priority station is carried. Showing such informational slides, they aver, is a logical and simple step which will eliminate most of the supposed problems cited as justification for abolishing single channel carriage. As for the injury which the absence of single channel carriage will produce for broadcasters, AMST contends that the *First Report and Order* offers only the sheerest speculation that dual channel carriage will increase the higher priority station's audience for its network programs and that this gain will be sufficient to offset losses in viewing for nonduplicative programs (i.e., local or syndicated programming) which will have a reduced "lead-in" audience due to dual channel carriage.

25. Cable television interests have responded to broadcasters' requests for reconsideration of the multiple channel carriage provision by arguing that it has been amply demonstrated that single channel carriage is no longer needed to protect stations from loss of audience and advertiser identification. "76 CATV Companies," in a joint filing, contend that it has never been a purpose of the single channel carriage rule to protect non-network programming and, therefore, the issue of lead-in value for non-network programs is not relevant to the question of multiple channel carriage. Furthermore, they stress that the Commission should bear in mind that the single channel carriage rule has been one of the greatest irritants to the public of all of the cable rules, and therefore, reconsideration of the abandonment of the single channel carriage rule patently would not be in the public interest.

b. *Discussion.* 26. We initiated our inquiry into possible revision of the nonduplication rules in April, 1974, with a view towards simplifying the rules and, wherever possible, lessening the burdens placed on cable operators while continuing to assure a sufficient degree of protection for the network programming of local television broadcast stations. Undoubtedly, the most widespread complaint received by the Commission from cable television subscribers concerned the blacking-out of certain cable channels during periods of required network nonduplication protection. While many subscribers objected to being forced to watch a particular station's broadcasts, the major source of subscriber frustration stemmed more from the fact that the deletion of a lower priority signal resulted in a blacked-out channel.

27. In the *First Report and Order*, we determined that a great deal of the subscriber dissatisfaction caused by the nonduplication rules could be alleviated by permitting cable operators to carry the signal of the local protected station on the blacked-out channel. In this way channels would no longer have to be blacked-out and the protected television station would still obtain protected status on those cable systems within its specified zone of protection. In addition, the multiple exposure of the local signal should not adversely effect its audience ratings due to the nonduplication editing procedures employed by the ratings services.<sup>14</sup>

28. The petitions for reconsideration of our decision to permit dual or multiple channel carriage have not presented any arguments or data not previously considered. Despite claims by broadcasters that they will be financially injured by the multiple channel carriage rule, we have seen no evidence to indicate that such injury will occur. The showing of informational slides on non-programmed channels which many cable systems have done for years, will not eliminate the inconvenience to cable subscribers caused by sudden black outs. We cannot, of course, guarantee local stations that

<sup>11</sup> See, *Report and Order in Docket No. 18774, FCC 71-176, 27 FCC 2d 654 (1971)*, dealing with questions on community ascertainment for television station licenses.

<sup>12</sup> See § 76.53 of the Rules.

<sup>13</sup> Our recent ruling in *WCEE-TV, Inc., FCC 75-1118, — FCC 2d — (1975)*, discussed the issue of permitting stations to select a specified zone for nonduplication, based upon the location of a station's transmitter site.

<sup>14</sup> See the *First Report and Order in Docket 1995, supra*, at p. 533.



dual-channel carriage will so increase the number of viewers watching their network programming that the alleged loss of a network "lead-in" to non-network programming will be offset. However, no persuasive evidence or data has been submitted to us in this proceeding to indicate that the loss of this "lead-in" will result in even a minimal overall decline in a station's audience or revenues.<sup>10</sup>

#### GENERAL EXEMPTION FOR SMALLER CABLE SYSTEMS

a. *Comments.* 29. NCTA, in its petition for reconsideration, charges that the Commission has no factual basis for limiting the new exemption from the nonduplication rules to cable systems having fewer than 1000 subscribers on a headend basis. They suggest that the 1000 subscriber system exemption will have no perceptible deregulatory effect and that the exemption level should be raised to 1500 subscribers per system. NCTA contends that even in the most highly penetrated cable markets, the number of television homes served by cable systems having fewer than 1500 subscribers within a television station's ADI (Area of Dominant Influence) averages less than three percent of a station's total audience. They further allege that in computing the number of cable systems and subscribers that would be exempt under the new rules the Commission failed to eliminate from consideration those systems already exempt under the former "500 subscriber exemption" as well as those systems which were situated in the equal priority contours of two stations.<sup>11</sup> Thus, they argue, the Commission's computation of the total number of subscribers and systems which will be exempt under the new rules is irrelevant. It is only the additional number of systems which would be exempt that should be considered. Since the increase in the number of cable systems and subscribers exempt per market under a 1,500 level would be insignificant according to their data, they assert that the Commission should increase the exemption level to 1,500 per cable headend.

30. Several broadcasters suggest that the new exemption level will have a serious impact on the operations of television stations located in smaller television markets. Such stations, they aver, unlike stations in larger markets, can ill afford the loss of even a small number of viewers. They recommend that the exemption level for cable systems in smaller television markets be lowered to 500 subscribers per headend in order to prevent the further loss of audience.

b. *Discussions.* 31. We have previously stated, both in our *Report and Order in Docket 18785, supra*, and in the *First Re-*

*port and Order* of this proceeding, that we want to exempt from the nonduplication rules those cable systems which are of such small size that they would be unduly burdened by having to comply with the rules. To some extent, of course, compliance with the nonduplication rules is a burden for all cable systems. Nonduplication switching equipment must be purchased and maintained and available personnel must be assigned to program the equipment and perform other necessary tasks. However, the relative inconvenience and expense associated with complying with the rules must be measured against the potential harm to broadcasters which could occur if a significant number of cable television households within a station's ADI were exempt from the rules.

32. We determined in the *First Report and Order* that cable systems serving more than 1,000 subscribers on a headend basis can reasonably be expected to comply with the nonduplication rules without being unduly burdened by the difficulties and expenses associated therewith. And, the potential adverse economic impact on local television stations appears to be minimal at the 1,000 subscriber exemption level. Beyond the 1,000 subscriber level—at 1,500 for example—the number of systems and subscribers which would be exempt from the rules escalates substantially. In smaller television markets particularly, where many small cable systems are located, the potential impact of a higher exemption level is proportionately increased within a station's specified zone. NCTA's figures on the percentage of total television households which would be exempt under a 1,500 subscriber level fail to take into account other revisions we have made in the rules, the effects of which must be considered in conjunction with the effect of our system headend exemption. In view of these considerations, we are not persuaded that a higher exemption level is warranted at this time. In response to those broadcasters who have urged that a lower exemption level be established for cable systems located in smaller television markets, it is sufficient to note that we have accorded smaller market stations an additional 20 miles of protection which should adequately offset any disproportionate numbers of small cable systems that may be located in smaller markets. Finally, we have recently adopted a similar exception to the applicability of our syndicated exclusivity rules. Since there exist common considerations in the adoption and enforcement of both the network nonduplication and the syndicated exclusivity rules, what we stated in the *Report and Order in Docket 20482, FCC 75-1065*, — FCC 2d — (1975) is particularly apt here:

What is basically involved is a question of establishing an appropriate balance. It seems clear that the burden of complying with the syndicated program exclusivity rules must fall disproportionately heavily on smaller cable systems. Smaller systems have less manpower available to comply with exclusivity requests and they have a smaller financial base over which to spread the capital costs of obtaining the switching equip-

ment that must be obtained and to pay for the continuing operation and maintenance of this equipment. In terms of the costs and the burdens involved, there would appear to be a great deal of similarity between the network nonduplication obligations and those under the syndicated exclusivity rules. In the *First Report and Order in Docket 19995*, we determined that 1,000 subscriber exemption would relieve these burdens from those systems upon which they fall most heavily. We believe the same conclusion is appropriate here if it can be concluded that this will not have an undue impact on local television broadcast stations and hence broadcast service to the public. It seems clear to us that the magnitude of the impact here would, if anything, be less than that associated with the network nonduplication exemption. Indeed, even the broadcast interests commenting in this proceeding appear generally to concede that the exemption proposed would not result in significant impact.

#### GRANDFATHERING

a. *Comments.* 33. NCTA has asked us to reconsider our decision not to grandfather the rights of those cable systems which were not required to provide nonduplication protection under the former rules. They contend that many systems which were previously within the equal priority contours of two stations will now be within the specified zone of one station and be forced to provide nonduplication protection for the first time. In many instances, they state, the purchase of nonduplication switchers and allocation of manpower for switching tasks will be necessitated for the first time as well. Thus, it is argued, the Commission will unnecessarily cause hundreds of cable television systems to spend substantial sums of money and countless manhours on nonduplication switching, undergo regular frustration and inconvenience and lose the goodwill of their subscribers. NCTA further argues that the Commission's failure to grandfather existing systems is inconsistent with its purported philosophy of seeking to deregulate the cable television industry.

34. Several broadcasters argue that they should be entitled to grandfathering of their nonduplication rights under the previous rules. Black Hawk Broadcasting Company and Cross Telecasting, Inc. contend that it is unfair for the Commission not to grandfather the nonduplication rights of television stations which previously received protection against the signals of grandfathered network stations whose carriage is inconsistent with the current signal carriage rules. Black Hawk believes that the Commission has given inadequate consideration to the reliance that television stations have placed on the former rules in making certain investment decisions, such as improving their facilities. They also complain of the unfairness involved in grandfathering cable television signal carriage inconsistent with the rules but failing to similarly grandfather network nonduplication rights of television stations which have to compete with grandfathered signals. They argue that the Commission should, therefore, recognize the reliance that stations have placed on the former nonduplication rules, as it has recognized the reliance by cable televi-

<sup>10</sup> We have recently discussed the showing which stations must present before waiving the "dual channel" rule in *Stations KPLM-TV and KMTB-TV, FCC 75-1055*, — FCC 2d — (1975).

<sup>11</sup> This exemption was adopted in the *Report and Order in Docket 18785, FCC 74-299*, 46 FCC 2d 94 (1974).



sion operators on prior signal carriage rules.

b. *Discussion.* 35. At Paragraph 90 of the *First Report and Order*, we explained our decision not to grandfather either cable systems or television stations regarding nonduplication protection. We indicated that the considerations which impelled us to grandfather cable carriage of certain television signals, although the signal carriage rules had changed, do not apply to grandfathering of nonduplication rights. Where signal carriage was concerned, subscribers would suddenly have been deprived of service to which they had become accustomed over a period of years. None of the parties protesting our decision not to accord grandfathered status to either cable systems or television stations has persuaded us that our basic rationale is erroneous; inasmuch as a change in these rules does not threaten any sudden deprivation of service, there is no reason to grandfather nonduplication rights as we grandfathered signal carriage rights. Moreover, the costs of compliance will be borne equally by both cable and broadcasting interests. Accordingly, since the service now provided the public is unlikely to be affected by the revised rules, we do not believe the public interest mandates that we grandfather the nonduplication rights of either cable systems or television stations.

#### TRANSLATOR STATIONS

a. *Comments.* 36. Cable television interests maintain that our revised rules with regard to television translator stations continue to discriminate against cable systems. They suggest that translators are often direct competitors of cable systems because they bring "distant" signals to the communities they serve. By permitting a translator to demand nonduplication protection in communities which lie anywhere within the Grade B contour of its parent station, the Commission is allowing television stations to extend their nonduplication rights far beyond their specified zones of protection. Thus, they aver, a television station can install a translator on the perimeter of its Grade B contour and obtain nonduplication protection in a community up to 100 or more miles from the station's city of license. And, since translators are quite inexpensive to install and Commission grants of translator applications are virtually automatic, NCTA suggests that the spirit and intent of the new rules can easily be abused. Therefore, they submit, there is no justification for maintaining nonduplication rights to a translator station that is located in a community in which the station being rebroadcast is not itself entitled to protection.

b. *Discussion.* 37. In our *First Report and Order*, we modified our rules to deny protection to a television translator station licensed to a community located outside the Grade B contour of its parent station (Section 76.92(d)). We also provided that the network programming of a translator station licensed to a community located in whole or in part within

the specified zone of protection of a television broadcast station need not be deleted by a cable system operating in the translator's community of license. (§ 76.92(e).) Our purposes in adopting these rules were twofold. First, in doing away with our contour priority system, translators (which were formerly the fourth priority) were left with no duplication rights. Since we considered it desirable to provide some degree of protection for translators, we adopted § 76.92(d), so that translators would be entitled to nonduplication protection in their communities of license, as long as the community was within the Grade B contour of the translator's parent station. Second, it appeared illogical to require a cable system operating in a translator's community of license to delete broadcasts that are *prima facie* available off-the-air in that community.

38. We do not believe that any further modification of our translator nonduplication rules is warranted at this time. Rather, a more prudent course would be to observe the effect that these changes have on the relationships between translator stations and cable television systems.

#### PROCEDURES AND SANCTIONS

a. *Comments.* 39. In the *First Report and Order*, we instituted certain changes in our nonduplication notification procedures in order to insure that cable television system operators receive accurate and timely notification from broadcasters as to what programs are entitled to nonduplication protection. However, we declined to set forth sanctions which would be automatically imposed against either broadcasters who fail to provide cable systems with proper notification or cable operators who do not provide protection when required to do so. NCTA suggests that the revised notification requirements do not meet the Commission's expressed goal of "preventing inconvenience and loss of protected programming to the viewing public." They specifically point to the loss of programming to subscribers which occurs when program schedule changes are made by lower priority stations and broadcasters fail to notify cable operators of the change.<sup>17</sup> NCTA submits that broadcasters whose programs are entitled to nonduplication protection should be required to notify cable operators of any modification in the programming of either the higher or the lower priority station's programming on the day that such schedule change occurs. In addition, NCTA contends that since stations which are entitled to nonduplication protection have no incentive to provide cable systems with notification of changes in the lower priority station's programming, the Commission should establish sanctions to be applied automatically to broadcasters who fail to provide such notice. Specifically, they recommend that immediate telephone notification of

<sup>17</sup> In effect, when a cable system is not made aware of a change in the lower priority station's programming, the system blacks-out a program which is not duplicative.

program changes be required and subsequently confirmed by letter if there is sufficient time to do so. If a broadcaster's failure to provide accurate initial notice, or notice of program changes results in two full hours or more of erroneous information in any single week, or four hours or more during any consecutive four-week period, NCTA suggests that the cable system should automatically be permitted to suspend nonduplication protection for the offending station. If a local station develops new procedures to eliminate its errors, they suggest that it should be permitted to file a petition for special relief with the Commission evidencing these revised procedures; and protection would then be reinstituted. However, such a petition could not be filed more than once during any yearly period.

40. In a joint opposition to NCTA's Petition for Reconsideration, the licensees of 24 television stations suggest that a cable operator has as much opportunity and capacity to ascertain information on late program changes as does the station seeking protection. They contend that if the problems arising from schedule changes are as onerous as NCTA claims, responsible cable operators should undertake to inform themselves of these changes by establishing "a simple procedure of communication" with the stations of lower priority—who would have every reason and incentive to cooperate in providing such information.

41. Finally, several representatives of broadcast interests, including AMST, state that it is unsound to require that program notices be provided one calendar month in advance. They state that many broadcasters have been sending weekly notices to cable operators and would like to continue to do so, but the new rules prohibit this practice.

b. *Discussion.* 42. With regard to the required frequency of program notices, the suggestion that the new rules prohibit weekly notices is erroneous and obviously some clarification is in order. Monthly notification is a minimum requirement to insure that cable operators will receive accurate periodic nonduplication notices rather than yearly master schedules which may be informally updated. We did not intend to prohibit broadcasters from sending more frequent notices. In fact, we encourage broadcasters to send weekly notices if they see fit to do so. The greater the frequency of such notices, the less likely it is that nonduplication errors will be made. To the extent our prior revisions insufficiently explicated the obligations of stations desiring protection, they are herewith amended. To correspond with the notification requirements of a weekly notice, the monthly notice—and changes thereto—must now be given six days in advance.

43. We must reject NCTA's request to reconsider our refusal to provide automatic sanctions against broadcasters who fail to furnish either accurate initial nonduplication notices or notice of late program schedule changes. We have established a new scheme of nonduplication protection and have required that nonduplication notices be provided with



greater frequency than in the past. We trust that broadcasters and cable operators will make a sustained effort to work cooperatively and to carry out their respective obligations as smoothly as possible. Such cooperation can only benefit all parties concerned. We think it unnecessary to adopt sanctions at this time which would be invoked against either cable operators or broadcasters who may at some time fail to properly fulfill their obligations under the rules. Such provisions would be unnecessarily rigid and would fail to take into account special mitigating circumstances which could account for rule violations. There is also a significant question of due process with regard to automatic revocation of stations' right to protection. Therefore, we will continue to reserve consideration of such matters for the special relief process. We do expect, however, that broadcasters will make a diligent effort to notify cable operators of changes in the program schedules of lower priority stations. It can be extremely difficult for cable operators to learn of such changes in sufficient time to reprogram nonduplication switching equipment to prevent the unnecessary loss of programming. Should there be any continuing abuse of the rules on the part of any party, we will not hesitate to take prompt remedial action.

44. Informal inquiries of the Commission have been made by parties seeking to clarify their respective rights and obligations under § 76.92(a)(1) and (2).<sup>18</sup> The question has arisen as to what course of action should be followed by cable operators who receive untimely monthly nonduplication notifications. In such cases, we expect that cable operators will comply with the late request as fully as possible in light of individual circumstances. Cable operators may not unilaterally decide that protection for the month will not be provided because of a late notice. However, operators should retain complete records of such occurrences. Should there develop a demonstrable pattern of abuse of the notice requirements, we invite cable operators to notify us promptly, for we expect to take swift remedial action.

45. We have revised § 76.94(a)(2) of the Rules which governs the submission of changes to the monthly or weekly nonduplication notification. If a television station utilizes a monthly notification procedure, any change to the station's programming which necessitates additional protection must be given at least six (6) days before the scheduled broadcast of the program to be protected. This will allow the cable operator sufficient time to re-program his switching equipment. Of course, in the case of a station utilizing weekly notifications, a change necessitating additional nonduplication

protection can be communicated to cable systems through the usual weekly notice. However, when a network program otherwise entitled to nonduplication protection is replaced by a program not entitled to such protection (either because it is a non-network program or it will not be subject to simultaneous duplication on the lower priority station), a failure to communicate this fact to the cable operator will result in a loss of network programming for cable subscribers. For, in such instances, the preset switching equipment will continue to black out the lower priority signal regardless of the fact that such protection is no longer required. To prevent such occurrences, we are requiring broadcasters to notify cable operators when nonduplication protection of a previously scheduled program is no longer required. Notice must be provided as soon as reasonably possible after the broadcaster decides upon or learns of the scheduling change. Since timely notice is likely to be crucial, notification by telephone will satisfy the requirements of this obligation.<sup>19</sup> We believe these revisions provide a sound foundation upon which cable operators and broadcasters can build a mutually beneficial relationship. To the extent compliance is feasible, we therefore urge cable operators to comply with changes to the regular nonduplication notifications which are not timely filed.

46. In conclusion, the parties who have petitioned for reconsideration of our revised nonduplication rules have essentially restated the arguments set forth in their comments and replies in Docket 19995. While various alternatives to our rules have been proposed, little in the way of new data or legal arguments has been presented that would persuade us to reconsider the rules we have adopted. We believe these revisions to our nonduplication rules can promote harmonious relations between the broadcast and cable television industries if they are applied with the common sense and good faith the public interest demands. As we have stated throughout the course of this proceeding, those cases in which a departure from general rules may be warranted will be duly considered in our special relief process. In this regard, we wish to note that a number of the petitions for reconsideration which have been submitted in Docket 19995 have been directed to the circumstances of the specific television market in which the petitioner operates. We invite these petitioners to resubmit their data pursuant to Section 76.7 of the Rules for our consideration in the special relief processes on an *ad hoc* basis.

Authority for rules adopted in the Appendix attached hereto is contained in

<sup>18</sup> Of course, if a cable operator learns independently of these notice requirements that protection is no longer mandatory, then, upon appropriate verification, from the broadcaster, the higher priority station need not be protected.

sections 2, 4(i) and (j), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Accordingly, it is ordered, That the petitions for reconsideration are granted to the extent indicated in Paragraph 42 herein, and in all other respects are denied.

It is further ordered, That Part 76 of the Commission's Rules and Regulations, is amended, effective December 1, 1975, as set forth below.

(Secs. 4, 303, 307, 48 Stat., as amended, 1068, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Adopted: October 8, 1975.

Released: October 20, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION

[SEAL] VINCENT J. MULLINS,  
Secretary.

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 76.94, paragraph (a) is revised to read as follows:

§ 76.94 Notification requirements and extent of protection.

(a) Where the network programming of a television station is entitled to non-duplication protection, a cable television system shall, upon request of the station licensee or permittee, refrain from simultaneously duplicating any network program broadcast by such station only if the cable television system has received the information required in paragraphs (a) (1) and (2) below:

(1) Notification of the date and time of the programming to be protected and date and time of the programming to be deleted must, at a minimum, be received on a monthly basis. If the station licensee or permittee elects to provide such notification on a monthly basis, it must be submitted no later than six (6) days preceding the calendar month during which nonduplication is requested. If the station licensee or permittee elects to provide such notification on a weekly basis, notice shall be given no later than the Monday preceding the calendar week (Sunday-Saturday) during which nonduplication protection is sought.

(2) Changes in the monthly notification request required by paragraph (a) (1) must be submitted six (6) days preceding the broadcast of the programming to be protected; *Provided, however*, that the licensee or permittee of the television station otherwise entitled to nonduplication protection must notify the affected cable television system as soon as possible, and without regard to the time limits prescribed in paragraph (a) (1), of any programming change which would render unnecessary the deletion of a lower priority television broadcast signal.

[FR Doc.75-28834 Filed 10-24-75; 8:45 am]



## RULES AND REGULATIONS

## Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND  
WILDLIFE SERVICE, DEPARTMENT OF  
THE INTERIOR

## PART 20—MIGRATORY BIRD HUNTING

Open Seasons, Bag Limits, and Possession  
of Certain Migratory Game Birds; Cor-  
rection

In FR Doc. 75-24772 appearing at page 44709 in the FEDERAL REGISTER of September 29, 1975, the following correction is made in order to bring the geographical description into agreement with the final frameworks relevant to the State of Missouri:

In § 20.105(e) on page 44716 under the entry for "Missouri: Geese," the designation "east of Interstate Highway 55" should be corrected to read "east of U.S. Highway 67."

**AUTHORITY:** Migratory Bird Treaty Act of July 3, 1918; as amended (40 Stat. 755; 16 U.S.C. 703-711).

Dated: October 22, 1975.

LYNN A. GREENWALT,  
*Director,*

*U.S. Fish and Wildlife Service.*

[FR Doc. 75-28903 Filed 10-24-75; 8:45 am]



# proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Customs Service

#### [19 CFR Part 10]

#### ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

#### Establishing a Procedure for the Duty-Free Entry of Certain Merchandise From Des- ignated Developing Countries

Notice is hereby given that under the authority of R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624), and section 503(b), 88 Stat. 2069, (19 U.S.C. 2463(b)), it is proposed to amend Part 10 of the Customs Regulations (19 CFR Part 10) to implement the provisions of section 503(b) of the Trade Act of 1974 (Public Law 93-618, 88 Stat. 1978), hereinafter referred to as the "Trade Act." Title V of the Trade Act authorizes the President to establish a Generalized System of Preferences (GSP) which would permit the duty-free entry of eligible merchandise arriving directly from designated "beneficiary developing countries." Section 503(b) of the Trade Act, relating to the requirements which must be met for eligible merchandise to receive duty-free treatment, authorizes the Secretary of the Treasury to prescribe such regulations as may be necessary to carry out the provisions of that subsection.

In accordance with sections 503(a) and 131(a) of the Trade Act, a notice by the President was published in the FEDERAL REGISTER on March 26, 1975 (40 FR 13456), listing the articles which will be considered for designation as eligible articles for purposes of the Generalized System of Preferences. The notice also included a list of countries which were designated by Executive Order 11844 (dated March 24, 1975), pursuant to sections 502(a)(1) and 503(a) of the Trade Act, as beneficiary developing countries and countries under consideration for designation as beneficiary developing countries.

The proposed amendments to Part 10 of the Customs Regulations set forth requirements and procedures for the free entry of eligible merchandise from beneficiary developing countries. The proposal would require the submission of evidence of the country of origin and, if it is determined to be necessary by the appropriate district director of Customs, proof that the merchandise was imported directly from the beneficiary developing country. If the district director is satisfied from other evidence that the merchandise clearly qualifies for duty-free treatment under the Generalized System of Preferences, he would be authorized to waive production of proof of direct shipment.

The proposed amendments further provide that eligible merchandise may

qualify for duty-free entry under the Generalized System of Preferences only if the sum of the cost or value of the materials produced in the beneficiary developing country plus the direct costs of processing operations performed there are at least 35% of the final appraised value of the merchandise. In the case of eligible merchandise produced by 2 or more countries which are members of an association of countries treated as one country under section 502(a)(3) of the Trade Act, the percentage of the cost or value of the materials produced in those countries plus the direct costs of processing operations performed there must be at least 50% of the final appraised value. The proposal also explains the procedure used in computing the cost or value of materials and the direct costs of processing operations.

Accordingly, it is proposed to amend Part 10 of the Customs Regulations (19 CFR Part 10) by the insertion of a new center heading and §§ 10.171 through 10.178 to read as follows:

#### GENERALIZED SYSTEM OF PREFERENCES

##### § 10.171 General.

(a) *Statutory authority.* Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465) authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free treatment for eligible articles arriving directly from designated beneficiary developing countries. Beneficiary developing countries and articles eligible for duty-free treatment are designated by the President by Executive order in accordance with sections 502(a)(1) and 503(a) of the Trade Act of 1974 (19 U.S.C. 2462(a)(1), 2463(a)).

(b) *Country defined.* For purposes of §§ 10.171 through 10.178, except as otherwise provided in § 10.176(a), the term "country" means any foreign country, any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, the President may by Executive order provide that all members of such association other than members which are barred from designation under section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) shall be treated as one country for purposes of §§ 10.171 through 10.178.

##### § 10.172 Claim for exemption from duty under the Generalized System of Preferences.

A claim for an exemption from duty on the ground that the Generalized System of Preferences applies shall be allowed by the appropriate district director only if he is satisfied that the requirements

set forth in this section and sections 10.173 through 10.178 have been met. A written claim for duty-free entry shall be filed at the time of the entry or application for immediate delivery of the eligible merchandise and prior to the release of the merchandise from Customs custody.

##### § 10.173 Evidence of the country of origin.

(a) *Shipments valued in excess of \$250.—(1) Certificate of Origin.* The importer or consignee of a shipment of eligible merchandise valued in excess of \$250 shall file with the district director at the time of entry a Certificate of Origin, Form A, as evidence of the country of origin. Form A shall be signed by the exporter of the merchandise in the country from which it is directly imported, certified by the appropriate governmental body in that country, and completed in accordance with the instructions provided on the form.

(2) *Duplicate Certificate of Origin.* In the event of the loss, theft, or destruction of a Certificate of Origin, the district director will accept at the time of entry a duplicate Certificate issued by the appropriate governmental body in the country of origin and endorsed with the word "duplicate" in box 4 of Form A. The duplicate must bear the date of issue of the original Certificate of Origin and will be effective from that date.

(3) *Release under bond.* If the required Certificate of Origin, or a duplicate thereof as described in subparagraph (2) of this paragraph, is not available for filing at the time of entry, the entry shall be accepted, subject to compliance with the requirements set forth in § 10.172 and §§ 10.174 through 10.178, only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the Certificate of Origin. The bond shall be in the amount required under § 113.14 of this chapter. Within 60 days after such entry, or such additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to the district director the Certificate of Origin. If the Certificate is not delivered to the district director within 60 days of the date of entry or such additional period as may be allowed by the district director for good cause shown, the importer or consignee shall deliver or cause to be delivered to the district director the merchandise which was released in accordance with this subparagraph. In the event the merchandise is not redelivered within 5 days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given on Form 7551. When the transaction has been charged against a



bond given on Form 7553 or 7595, liquidated damages shall be assessed in the amount that would have been demanded under the preceding sentence if the merchandise had been released under a bond given on Form 7551.

(4) *Verification of evidence.* Evidence of the country of origin required under this paragraph shall be subject to such verification as the district director deems necessary.

(5) *Baggage declarations.* The district director may waive the production of a Certificate of Origin in the case of articles accompanying a returning resident or non-resident when he is otherwise satisfied that the merchandise qualifies for duty-free entry under the Generalized System of Preferences.

(b) *Shipments valued at \$250 or less.* Although the filing of a Certificate of Origin, Form A, is not required for shipments valued at \$250 or less, the district director may require such other evidence of the country of origin as he deems necessary.

#### § 10.174 Evidence of direct shipment.

(a) *Documents constituting evidence of direct shipment.* The district director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence of direct shipment, as that term is defined in section 10.175. Any evidence of direct shipment required by the district director shall be subject to such verification as he deems necessary.

(b) *Waiver of evidence of direct shipment.* The district director may waive the submission of evidence of direct shipment when he is otherwise satisfied, taking into consideration the kind and value of the merchandise, that the merchandise clearly qualifies for treatment under the Generalized System of Preferences.

#### § 10.175 Direct shipment defined.

Eligible articles must be imported directly from a beneficiary developing country to qualify for treatment under the Generalized System of Preferences. For purposes of sections 10.171 through 10.178 the words "imported directly" mean:

(a) Direct shipment from the beneficiary country to the United States without passing through the territory of any other country; or

(b) In the event of transshipment, the invoices, bills of lading, and other documents connected with the shipment must show the United States as the final destination, and the merchandise must not have entered into the commerce of any other country while en route to the United States.

#### § 10.176 Country of origin criteria.

(a) *Merchandise produced in one beneficiary developing country.* Merchandise which is the growth, product, manufacture, or assembly of a beneficiary developing country and which is imported directly from such beneficiary developing country may qualify for duty-free entry under the Generalized System of

Preferences only if the sum of the cost or value of the materials produced in the beneficiary developing country, plus the direct costs of processing operations performed in such country, is not less than 35 percent of the value of the article as appraised in accordance with section 402 or 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). For purposes of this paragraph, the term "country" does not include an association of countries which is treated as one country under § 10.171(b), but does include a country which is a member of any such association.

(b) *Merchandise produced in two or more countries which are members of an association.* Merchandise which is the growth, product, manufacture, or assembly of two or more countries which are members of an association of countries treated as one country under section 502(a)(3) of the Trade Act of 1974 (19 U.S.C. 2462(a)(3)) and § 10.171(b), and which is imported directly from a member country, may qualify for duty-free treatment under the Generalized System of Preferences only if the sum of the cost or value of the materials produced in such countries, plus the direct costs of processing operations performed in such countries, is not less than 50 percent of the value of the article as appraised in accordance with section 402 or 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402).

(c) *Merchandise grown, produced, or manufactured in a beneficiary developing country.* Merchandise which is the growth, product, or manufacture of a beneficiary developing country, or an association of countries treated as one country under section 502(a)(3) of the Trade Act of 1974 (19 U.S.C. 2462(a)(3)) and § 10.171(b), and manufactured products consisting of materials produced only in such country or countries, shall normally be presumed to meet the requirements set forth in this section.

#### § 10.177 Cost or value of materials produced in the beneficiary developing country.

(a) *"Produced in the beneficiary developing country" defined.* For purposes of §§ 10.171 through 10.178, the words produced in the beneficiary developing country" refer to materials which are either:

(1) Wholly the growth, product, or manufacture of the beneficiary developing country; or

(2) Substantially transformed in the beneficiary developing country into a new and different article of commerce.

(b) *Questionable origin.* When the origin of an article either is not ascertainable or not satisfactorily demonstrated to the appropriate district director, the article shall not be considered to have been produced in the beneficiary developing country.

(c) *Determination of cost or value of materials produced in the beneficiary developing country.*

(1) The cost or value of materials produced in the beneficiary developing country includes:

(i) The manufacturer's actual cost for the materials;

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(iv) Taxes and/or duties imposed on the materials by the beneficiary developing country, or an association of countries treated as one country, provided they are not remitted upon exportation.

(2) In the event the material is provided to the manufacturer without charge, its cost or value shall be determined by computing the sum of:

(i) All expenses incurred in the growth, production, manufacture or assembly of the material, including general expenses;

(ii) An amount for profit; and

(iii) Freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant.

If the pertinent information needed to compute the cost or value of the materials is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

#### § 10.178 Direct costs of processing operations performed in the beneficiary developing country.

(a) *Items included in the direct costs of processing operations.* As used in § 10.176, the words "direct costs of processing operations" mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include, but are not limited to:

(1) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(2) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(3) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise; and

(4) Costs of inspecting and testing the specific merchandise.

(b) *Items not included in the direct costs of processing operations.* Those items which are not included within the meaning of the words "direct costs of processing operations" are those which are not directly attributable to the merchandise under consideration or are not "costs" of manufacturing the product. These include, but are not limited to:

(1) Profit; and

(2) General expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture,



or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

Prior to adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments submitted in writing to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received no later than November 28, 1975.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)), at the Regulations Division, United States Customs Service, Washington, D.C., during regular business hours.

Approved: October 22, 1975.

[SEAL] VERNON D. ACRE, Commissioner of Customs.

DAVID R. MACDONALD, Assistant Secretary of the Treasury.

[FR Doc.75-28841 Filed 10-24-75; 8:45 am]

## DEPARTMENT OF THE INTERIOR

[ 32A CFR Ch. X ]

Office of the Secretary

### ALLOCATION OF NATURAL GAS FOR DEFENSE PURPOSES

Interior Priority Regulation No. 3

The Department of the Interior proposes to establish emergency procedures for the allocation of natural gas under the Defense Production Act of 1950 to assure adequate supplies to vital defense activities. This regulation will be issued pursuant to sections 101, 704, 705, and 707 of the Defense Production Act of 1950, as amended (50 U.S.C., App., Sec. 2061 et seq.); Executive Order No. 10480, as amended, and DMO-3, formerly DMO 8400.1 (32A CFR, p. 17); redesignated DMO-3, effective June 27, 1975 (40 FR 27218).

Interior Priority Regulation No. 3 will establish the procedure for the consideration and approval or denial by the Department of the Interior of requests for allocation of natural gas under the Defense Production Act of 1950 to assure supplies needed (1) in the production of certain military equipment and supplies under contracts with the Department of Defense; (2) in the operation of military installations in the United States; (3) in the operation of defense-related atomic energy facilities of ERDA when operated by ERDA or one of its contractors; and (4) in the production of national defense equipment and supplies under contracts with ERDA or its operating contractors. It provides procedures for handling and consideration of requests for adjustments or exceptions, records and reports, an address for communications, a set of definitions, provisions or violations, a special reference to the jurisdiction of the FPC and legal citations.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to par-

ticipate in the development of such regulations. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the Assistant Secretary—Energy and Minerals, U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before November 18, 1975 will be considered before final action is taken on this proposal.

Date: October 20, 1975.

JACK W. CARLSON, Assistant Secretary of the Interior.

### INTERIOR PRIORITY REGULATION 3

#### ALLOCATION OF NATURAL GAS FOR DEFENSE PURPOSES

Section 1. *What this regulation does.* This regulation establishes the procedure for the consideration, and the granting by the Department of the Interior, of priorities and allocation assistance under the Defense Production Act of 1950, as amended, to assure the fulfillment of needs for natural gas in the production of certain military equipment and supplies under contracts with the Department of Defense, in the operation of military installations in the United States, in the operation of defense-related atomic energy facilities of the Energy Research and Development Administration (ERDA) when operated by ERDA or one of its contractors and in the production of national defense equipment and supplies under contracts with ERDA or its operating contractors. The regulation is applicable only in exceptional cases where, in the event of actual or imminent shortages of natural gas, the Federal Power Commission (FPC) and the State regulatory commission(s) involved are unable, due to lack of jurisdiction, effectively to direct delivery of natural gas to meet such defense needs through the exercise of their respective authorities. Cases in which the Secretary of Defense or the Administrator of ERDA does not secure the relief which is within the jurisdiction of the FPC to grant and for which the Secretary or the Administrator seeks to invoke the Defense Production Act are also covered by this regulation. In instances where actions by the Federal Power Commission and/or the State regulatory commission(s) can accomplish part but not all of the channeling of the natural gas required to fill the specific defense or atomic energy need identified and endorsed by the Department of Defense or ERDA, as appropriate, priorities and allocation assistance provided under this regulation may supplement their authorities to effect delivery of natural gas required, by operating in concert with the measures taken by those bodies under their respective jurisdictions.

Section 2. *Requests by the Department of Defense or ERDA.* (a) The Department of Defense or ERDA, having first sought the assistance of FPC and any State regulatory commission concerned, and having been advised by those bodies of their inability to effect arrangements with suppliers of natural gas to provide

the gas requested, may submit a written request to the Assistant Secretary—Energy and Minerals, Department of the Interior, for the issuance of directive(s) to the appropriate supplier(s) of natural gas under the authority of the Defense Production Act of 1950, as amended, directing them to supply the needed gas to the Department of Defense, ERDA, or the contractor of either of these, as the case may be. Upon the expiration of any initial temporary extraordinary relief granted to the Department of Defense or ERDA, or a contractor of either of them, by FPC and the FPC's denial of an extension of such relief, the Department of Defense or ERDA may submit to the Assistant Secretary—Energy and Minerals, Department of the Interior, a request for, and obtain, a continuation of similar temporary relief through issuance of a directive to suppliers under authority of the Defense Production Act of 1950, as amended, until such times as the request procedures set forth elsewhere in this Section 2 have been followed and the consideration described in Section 3 has been concluded. The supplier(s) may include, as indicated by definitions in Section 10 of this regulation, owners of natural gas and transporters of natural gas by pipeline.

(b) Such request from the Department of Defense or ERDA shall set forth the following: (1) the name and location of the facility to which the gas is to be delivered; (2) the usual supplier(s) of natural gas; (3) the type of end product or component or service produced and its importance to Department of Defense or ERDA programs; (4) a statement as to why the production or service cannot be interrupted or postponed until the shortage of gas is otherwise alleviated; (5) the quantity of gas needed per day for defense related products; (6) the number of days, weeks or months ahead in which such requirements for natural gas or an increased or decreased requirement, will prevail; (7) the ability or lack of ability of the facility to use an alternate fuel in lieu of natural gas and, if alternate fuel can be used, efforts which have been made to obtain such fuel; (8) date, amount and probable duration of the curtailment or cut-off of natural gas supply as stated by the supplier; (9) the proposed supply source for additional gas needed, together with copies of any contingent contracts for such suppliers; and (10) efforts made by the defense contractor, the Department of Defense, ERDA or ERDA's contractor with the State regulatory commission(s) and FPC to obtain the required gas, and the outcome of these efforts. Specific dates and names of officials to whom formal requests for assistance were made, and their final responses to the requests, should also be included.

Section 3. *Consideration of Department of Defense or ERDA requests.* (a) Upon receipt of a request from the Department of Defense or ERDA as provided in Section 2 above, the Department of the Interior, acting for the President, will promptly review it and confer with FPC, the Federal Energy Administration (FEA), and the Federal Preparedness



Agency (FPA) concerning the proposal. Views sought from FPC will pertain to physical and operating arrangements by which the proposed deliveries of natural gas might be accomplished, and the effects of such arrangements upon matters within the jurisdiction of FPC. Views sought from FEA will pertain especially to the relationship of the requested allocation of natural gas to other fuel requirements, availabilities and allocations in the affected area. Views sought from FPA will pertain especially to the relationship of the particular military or atomic energy program involved to the policies prescribed in sections 3.a.(1), 3.a.(2), and 3.a.(3) of Defense Mobilization Order-3 (DMO-3), formerly DMO 8400.1; redesignated DMO-3, effective June 27, 1975 (40 F.R. 27218).

(b) The above cited sections of Defense Mobilization Order-3 (DMO-3) permit use of the authority of Title I of the Defense Production Act of 1950, as amended, to require preference in the performance of contracts and orders and to allocate materials and facilities to accomplish the following: (1) direct military and atomic energy programs; (2) other programs and activities which are related to the military and atomic energy programs and are certified by the Department of Defense or ERDA and specifically authorized by FPA; and (3) deliveries, production and construction in industry required to fulfill direct military and atomic energy programs and the related programs and activities authorized under (2) above. Allocation assistance with respect to natural gas which may be granted to the Department of Defense or its contractors, under this regulation will be limited to the categories of programs and activities specified in (1), (2), and (3) above, except construction.

(c) Increased costs associated with conversion to and use of a fuel other than natural gas shall not alone be considered as a valid reason to provide natural gas under this regulation. In the event that the contractor, defense installation, or atomic energy facility involved lacks existing alternate fuel capability, any relief granted under this regulation will be contingent on the subject facility's immediately initiating measures to install alternate fuel capability if technically feasible.

(d) Where serious national security implications are involved, a proposed rejection of the request for relief will be discussed with the Secretary of Defense or the Administrator of ERDA, as appropriate, prior to the rendering of a negative decision.

**Section 4. Directives.** (a) If it is concluded that the priorities and allocation assistance requested by the Department of Defense or ERDA should be granted, the Department of the Interior will prepare and issue the necessary written directive(s), in letter form, to the appropriate supplier(s) of natural gas where FPC or state regulatory commissions are without jurisdiction to act. The directive(s) will require the supplier(s), regardless of other existing contracts or orders, to deliver or have delivered speci-

fied quantities of natural gas to the designated facility over a specified period of time. Such directives may require, if necessary, the transfer of gas between intrastate or interstate transmission pipeline systems and by any natural gas supplier, including producers and natural gas distribution companies. The directives also may require the owner(s) of natural gas to deliver to a transmission pipeline or distribution pipeline, for ultimate delivery to the designated facility of a defense contractor, the Department of Defense, or ERDA a specified quantity of gas purchased or to be purchased from the said owner(s) by the defense contractor, the Department of Defense, ERDA or ERDA's contractor. Each supplier to whom a directive is issued shall comply with it fully and completely.

(b) In the preparation of directives for issuance under this regulation, staff of the Department of the Interior will call upon staff of FPC for consultation and technical assistance to ensure that the directed action will have the minimum possible impact on normal operations of transmission and distribution systems involved and on customers being served by these systems. Upon issuance of a directive, the Department of the Interior will send copies of it to appropriate officials of the Department of Defense or ERDA, FPC, the State regulatory commission(s) involved, FPA, and FEA.

**Section 5. Delegation of authority.** The Assistant Secretary—Energy and Minerals, Department of the Interior, is designated and authorized to administer this regulation. For this purpose, there is hereby delegated to him the functions and powers vested in the Secretary of the Interior under the Defense Production Act of 1950, as amended, by Executive Order 10480, as amended, and section 4.a. of Defense Mobilization Order-3 (DMO-3) insofar as such functions and powers relate to "gas," which is defined in section 601 of Executive Order 10480 as meaning "natural gas and manufactured gas, including pipelines for the movement thereof." This authority may be redelegated only by the Assistant Secretary—Energy and Minerals.

**Section 6. Defense against claims for damages.** In accordance with the provisions of section 707 of the Defense Production Act of 1950, as amended, no supplier shall be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with the provisions of any directive issued under this regulation.

**Section 7. Requests for adjustments or exceptions.** Any supplier to whom a directive is issued under this regulation may file with the Assistant Secretary—Energy and Minerals, Department of the Interior, a request for adjustment or exception upon the ground that its enforcement against him would be unduly prejudicial. An adjustment, exception or denial of the request shall be made within 15 days after receipt of the request by the Assistant Secretary—Energy and Minerals.

**Section 8. Records and reports.** (a) Each supplier to whom a directive is issued under this regulation shall make

and preserve, for at least two years thereafter, accurate and complete records of deliveries made under the contract to which the directive relates. Records may be retained in the form of microfilm or photographic copies instead of the original by those persons who, at the time such microfilm or other photographic records are made, maintain such copies of records in the regular and usual course of business.

(b) All records required by this regulation shall be made available for inspection and audit by duly authorized representatives of the Department of the Interior at the usual place of business where the records are maintained.

(c) Suppliers to whom directives are issued under this regulation shall make such records and submit such reports to the Assistant Secretary—Energy and Minerals, Department of the Interior, as he may require.

**Section 9. Communications.** All communications concerning this regulation shall be addressed to the Assistant Secretary—Energy and Minerals, Department of the Interior, Washington, D.C. 20240.

**Section 10. Definitions.** As used in this regulation—

(a) The term "supplier(s) of natural gas" as well as the word "supplier(s)" means a person capable of fulfilling a delivery contract with the Department of Defense, or with a person performing production under a contract with the Department of Defense or with ERDA, or with a contractor operating an ERDA facility, as named in a directive issued under this regulation, for natural gas to be provided by pipeline (i.e., interstate transmission pipeline, intrastate transmission pipeline, or distribution pipeline), and it includes owners of natural gas, as defined in section 10(b) hereof, and persons engaged in the transportation of natural gas by pipeline.

(b) The term "owner(s) of natural gas" means a person who owns or legally controls natural gas supplies which are available for and subject to being sold for delivery to the Department of Defense, ERDA, or a contractor of either of them, designated in a directive issued under this regulation, and it includes gas producers and gas consumers who might sell a portion of their "rights" to buy natural gas under existing supply contracts or other arrangements.

(c) The word "person," as used in the definitions in this section, includes an individual, corporation, partnership, association or any other organized group of persons.

**Section 11. Violations.** In accordance with the provisions of section 705(d) of the Defense Production Act of 1950, as amended, any supplier who willfully fails to perform any act required by this regulation, or any directive issued thereunder, is guilty of a crime and upon conviction may be punished by fine or imprisonment.

**Section 12. Regulatory status.** Use of this regulation to provide supplies of natural gas for the Department of Defense, ERDA, or their contractors shall not change the status of those supplies,



or the reserves from which those supplies are drawn, with regard to FPC's regulatory authority.

Section 13. *Authority.* This regulation is issued pursuant to sections 101, 704, 705, and 707 of the Defense Production Act of 1950, as amended (50 U.S.C., App. sec. 2061 et seq.); Executive Order No. 10480, as amended; and DMO-3, formerly DMO 8400.1 (32A CFR, p. 17); redesignated DMO-3, effective June 27, 1975 (40 F.R. 27218).

JACK W. CARLSON,  
Assistant Secretary  
of the Interior.

October 20, 1975.

[FR Doc. 75-28692 Filed 10-24-75; 8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### [7 CFR Part 52]

#### MAPLE SIRUP

#### Proposed Standard Revisions

Notice is hereby given that the United States Department of Agriculture is considering the revision and combining of the United States Standards for Grades of Maple Sirup for Reprocessing (7 CFR 52.5921-52.5926) and the United States Standards for Grades of Table Maple Sirup (7 CFR 52.5961-52.5968) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1087, et. seq. as amended; 7 U.S.C. 1621 et seq.).

The Agricultural Marketing Act of 1946 provides for the issuance of official United States grades to designate different quality levels for the voluntary use of producers, buyers, and consumers. Official grading services are also provided for under this Act upon request and payment of the fee to cover the cost of such services.

Interested persons desiring to submit written data, views, or arguments for consideration in connection with the proposals should file the same, in duplicate, not later than November 28, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Room 112 Administration Building Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public review at the office of the Hearing Clerk during business hours (7 CFR, 1.27 (b)).

#### STATEMENT OF CONSIDERATION LEADING TO THE REVISION OF THE STANDARDS

The proposed revision to the United States Standards for Grades of Table Maple Sirup and for Maple Sirup for Reprocessing includes:

1. Combining the two existing standards into a single standard.
2. Designating Table Maple Sirup and Maple Sirup for Reprocessing as "Types."

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

3. Changing the grade names to U.S. Grade A, U.S. Grade B, U.S. Grade C, and U.S. Grade D.

4. Updating the lot acceptance criteria to conform with the procedures used for other processed products.

Prompted by the need to revise the two U.S. Department of Agriculture maple sirup standards following the promulgation of Food and Drug Standards of Identity, it was deemed advisable to combine the two current standards into one. (The basic difference between the two standards is in the area of color.) It is proposed to differentiate between the table sirup and the sirup for reprocessing by including each as a "type."

The need to standardize and simplify grade nomenclature has been repeatedly pointed out in reports from General Accounting Office audits, and the White House's Consumer Affairs Office. Preparatory to proposing this revision, a letter was sent to the Departments of Agriculture of several maple producing states asking their thoughts about changing and simplifying the grade nomenclature. A majority of those responding favored the nomenclature proposed.

The product description has been restated to adopt the newly effective Food and Drug Standard of Identity—including its increased Brix requirement.

An updating of the lot acceptance criteria is included in the proposal. The proposed criteria would bring the maple sirup standards under the same procedures used for other processed products.

The proposed revisions are as follows:

#### § 52.5961 Product description.

(a) "Maple sirup" means maple sirup as defined in the Standards of Identity for Maple Sirup (29 CFR 30.2 published at 39 FR 20882) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(b) The sirup shall have a soluble solids content of not less than 66.0 degrees Brix at 20° C. (68° F.). Brix shall be determined refractometrically or by Brix spindle.

#### TYPES

#### § 52.5962 Types of maple sirup.

(a) *Table maple sirup.* Table maple sirup for the purposes of this subpart is maple sirup packaged in one gallon, or smaller, containers.

(b) *Maple sirup for reprocessing.* Maple sirup for reprocessing for the purpose of this subpart is maple sirup packaged in containers larger than one gallon.

#### GRADES

#### § 52.5963 U.S. Grade A.

(a) *U.S. Grade A table maple sirup* shall meet the following requirements:

(1) The color shall not be darker than *Light amber* as represented by the color standards of the U.S. Department of Agriculture.

(2) The sirup shall not be cloudier than the *Light amber cloudy standard* as represented by the U.S. Department of Agriculture standards for cloudiness.

(3) The sirup shall have a characteristic maple flavor, shall be clean, free from fermentation, and free from damage caused by scorching, buddiness, any objectionable flavor or odor or other means.

(b) *U.S. Grade A maple sirup for reprocessing* shall meet the following requirements:

(1) The color shall not be darker than *Light amber* as represented by the color standards of the U.S. Department of Agriculture.

(2) The sirup shall have a characteristic maple flavor, shall be free from fermentation and free from damage caused by scorching, buddiness, any objectionable foreign flavor or odor or other means.

#### § 52.5964 U.S. Grade B.

(a) *U.S. Grade B table maple sirup* is maple sirup that meets the requirements for U.S. Grade A Table Maple Sirup except for color and cloudiness.

(1) The color shall not be darker than *Medium amber* as represented by the color standards of the U.S. Department of Agriculture.

(2) The sirup shall not be cloudier than *Medium amber cloudy standard* as represented by the standards of the U.S. Department of Agriculture for cloudiness.

(b) *U.S. Grade B maple sirup for reprocessing* is maple sirup that meets the requirements for U.S. Grade A Maple Sirup for Reprocessing except for color.

(1) The color shall be darker than *Light amber* but shall not be darker than *Medium amber* as represented by the color standards of the U.S. Department of Agriculture.

#### § 52.5965 U.S. Grade C.

(a) *U.S. Grade C table maple sirup* is maple sirup that meets the requirements for U.S. Grade A Table Maple Sirup except for color and cloudiness.

(1) The color shall not be darker than *Dark amber* as represented by the color standards of the U.S. Department of Agriculture.

(2) The sirup shall not be cloudier than *Dark amber cloudy standard* as represented by the standards of the U.S. Department of Agriculture for cloudiness.

(b) *U.S. Grade C maple sirup for reprocessing* is maple sirup that meets the requirements of U.S. Grade A Maple Sirup for Reprocessing except for color.

(1) The color shall be darker than *Medium amber* but shall not be darker than *Dark amber* as represented by the color standards of the U.S. Department of Agriculture.

#### § 52.5966 U.S. Grade D maple sirup for reprocessing.

U.S. Grade D maple sirup for reprocessing is maple sirup that meets the requirements of U.S. Grade A Maple Sirup for Reprocessing except for color.

(1) The color shall be darker than *Dark amber* represented by the color standards of the U.S. Department of Agriculture.



§ 52.5967 Unclassified table maple sirup or maple sirup for reprocessing.

Unclassified table maple sirup or maple sirup for reprocessing is maple sirup which has not been classified in accordance with the foregoing grades. The term "Unclassified" is not a grade within the meaning of the standards in this subpart but is provided as a designation to show that no definite grade has been applied to the lot.

EXPLANATION OF TERMS

§ 52.5968 Explanation of terms.

(a) "Cloudiness" means presence in suspension of fine particles of mineral matter, such as malate of lime, "niter," "sugar sand," or other substances that detract from the clearness of the sirup.

(b) "Clean" means that the sirup shall be practically free from foreign material such as pieces of bark, soot, dust, and dirt.

(c) "Damage" means any defect that materially affects the appearance or edibility or shipping quality of the sirup.

(d) "Serious damage" means any defect that seriously affects the edibility or market value of the sirup. Badly scorched sirup, buddy sirup, fermented sirup or sirup that has any distasteful foreign flavor or disagreeable odor shall be considered as seriously damaged.

(e) "Buddy flavor, buddiness" is an unpleasant flavor characteristic of sirup made from sap collected from dormant trees as they come out of dormancy.

(f) "U.S. Department of Agriculture Color Standards" means the official U.S. Department of Agriculture Permanent Glass Color Standards for Maple Sirup. The Color Standards are available only from the licensed supplier:

Phoenix Precision Instruments Division, The Virtis Company, Incorporated, Route 208, Gardiner, New York 12525.

LOT COMPLIANCE

§ 52.5969 Determining the grade of a lot.

The grade of a lot of maple sirup covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.83); *Provided*, That:

(a) When certifying the color of a sample that has been officially drawn and which represents a specific lot of maple sirup, the lot shall be considered as being of one color if the number of color deviants does not exceed the acceptance number in the appropriate sampling plan: *Provided, however*, That none of the sample units falls below the next darker color designation.

(b) No deviants for "serious damage" shall be allowed.

Dated: October 21, 1975.

DONALD E. WILKINSON,  
Administrator.

[FR Doc. 75-28788 Filed 10-24-75; 8:45 am]

[7 CFR Part 1046]

[Docket No. AO-123-A45]

MILK IN THE LOUISVILLE-LEXINGTON-  
EVANSVILLE MARKETING AREA

Notice of Hearing on Proposed Amend-  
ments to Tentative Marketing Agreement  
and Order

Notice is hereby given of a public hearing to be held at the Executive Inn, Watterson Expressway at Fairgrounds, Louisville, Kentucky, beginning at 9:30 a.m., on November 13, 1975, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Louisville-Lexington-Evansville marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

*Proposed by Dairymen, Inc.:*

*Proposal No. 1*

Revise paragraph (a) of § 1046.50, to read as follows:

§ 1046.50 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.75.

*Proposal No. 2*

Add a new § 1045.53(d) as set forth below and amend paragraph (a) as follows:

§ 1046.52 Plant location adjustments for handlers.

(a) For that milk received from producers or from a handler described in § 1046.9(c) at a pool plant located at any point which is 60 miles or more from the City Hall in Evansville, Indiana, or Louisville or Lexington, Kentucky, whichever is nearer, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this Section, the price specified in § 1046.50(a) shall be:

(1) Reduced at the rate set forth in the following schedule according to the location of the plant where such milk is received if such plant is located north of the Ohio River or west of the Mississippi River; or

(2) Increased at the rate set forth in the following schedule according to the

location of the plant where such milk is received if such plant is located south of the Ohio River and east of the Mississippi River.

Rate per  
hundredweight  
(cents)

|                                                                         |      |
|-------------------------------------------------------------------------|------|
| Distance from city hall:                                                |      |
| 60 mi. but less than 70 mi. ....                                        | 10.0 |
| For each additional 10 mi. or frac-<br>tion thereof an additional. .... | 2.0  |

(d) The market administrator shall publicly announce the location adjustment of each plant of each handler as determined pursuant to paragraph (a) of this Section. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location adjustment will apply.

*Proposal No. 3*

Amend paragraph (c) (1) of § 1046.13 to read as follows:

§ 1046.13 Producer milk.

(c) \* \* \*

(1) Milk so diverted shall be deemed to have been received at the pool plant from which diverted, if diverted, to a nonpool plant located not more than 125 miles from the City Hall in Louisville, or Lexington, Kentucky, or Evansville, Indiana, whichever is nearer; and such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted; if diverted, to a nonpool plant located more than 125 miles from the nearer of the City Hall of Louisville, or Lexington, Kentucky, or Evansville, Indiana.

*Proposed by National Farmers' Organization:*

*Proposal No. 4*

Revise § 1046.50(a) as follows:

§ 1046.50 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.80.

*Proposed by the Dairy Division, Agricultural Marketing Service:*

*Proposal No. 5*

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 3920 Bardstown Road, Louisville, Kentucky, (P.O. Box 18030, Louisville, Kentucky 40218), or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on: October 22, 1975.

DONALD E. WILKINSON,  
Administrator.

[FR Doc. 75-28825 Filed 10-24-75; 8:45 am]



## [ 7 CFR Part 1094 ]

[Docket No. AO-103-A38]

MILK IN THE NEW ORLEANS,  
LOUISIANA, MARKETING AREARecommended Decision and Opportunity  
To File Written Exceptions on Proposed  
Amendments to Tentative Marketing  
Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the New Orleans, Louisiana, marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by November 12, 1975. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

## PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as herein-after set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Jackson, Mississippi, April 22-26, 1975, pursuant to notice thereof issued March 10, 1975 (40 FR 11878) and March 14, 1975 (40 FR 12660).

The material issues on the record of the hearing relate to:

1. Expansion of marketing area;
2. Class I price and location adjustments;
3. Partial payments to producers and cooperative associations;
4. Pool plants;
5. Producer-handler;
6. Administrative assessment;
7. Producer and producer milk;
8. Marketing period; and
9. Miscellaneous administrative provisions.

A reopening of the April 1975 hearing was held in Washington, D.C., on June 26, 1975, pursuant to notice thereof issued June 16, 1975 (40 FR 25828). This session of the hearing was limited to considering the appropriate classification of flavored milk, flavored milk drinks, and milkshake and ice milk mix (or base) and was held simultaneously with a hearing involving the identical matter under 36 Federal orders. An emergency decision was issued on July 11, 1975 (40 FR 30119) containing findings and conclusions and an order made effective August 1, 1975, on the limited issue considered at the June 26, 1975

hearing. Accordingly, the proposed order language contained in this decision incorporates the appropriate provisions of the amendatory action taken regarding classification which became effective August 1, 1975.

## FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Expansion of the marketing area.* The New Orleans marketing area, which presently includes the 7 Louisiana parishes of Jefferson, Lafourche, Orleans, Plaquemine, St. Bernard, St. Charles, and Terrebonne, should be expanded to include three additional Louisiana parishes and 64 counties in the State of Mississippi. All territory occupied by government (municipal, State or Federal) reservations, installations, institutions or other establishments, if any part thereof is within any of the designated counties or parishes, as well as all piers, docks and wharves, including craft moored thereat, that are a part of these counties or parishes, likewise should be a part of the proposed "New Orleans-Mississippi marketing area."

The three Louisiana parishes, St. Tammany, Tangipahoa, and Washington, are located north of the present New Orleans marketing area across Lake Pontchartrain. These parishes had a population of 171,447 in 1970 (based on U.S. Census) with the cities of Bogalusa (18,412) and Hammond (12,487) being the principal centers of population. Two distributing plants would become regulated as a result of adding these three parishes to the marketing area, a plant in Bogalusa and a plant in Abita Springs.

The 64 Mississippi counties which encompass approximately three-fourths of the State are: Adams, Amite, Attala, Bolivar, Calhoun, Carroll, Choctaw, Claiborne, Clarke, Coahoma, Copiah, Covington, Forrest, Franklin, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Humphreys, Issaquena, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Leflore, Lincoln, Lowndes, Madison, Marion, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Sunflower, Tallahatchie, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, and Yazoo. The population of these 64 counties was 1.8 million in 1970. The city of Jackson, with a population of 153,968, is the largest city in the State. Other cities in the Mississippi portion of the marketing area include Biloxi (48,486), Meridian (45,083), Gulfport (40,791), Greenville (39,648), Hattiesburg (38,277), Pascagoula (27,264), Columbus (25,795), Vicksburg (25,478), Laurel (24,145), Greenwood (22,400), and Clarksdale (21,673).

The total population of the New Orleans-Mississippi marketing area is about 3.2 million. Approximately 1 mil-

lion of this total population lives within the New Orleans standard metropolitan statistical area.

There are 12 distributing plants and two supply plants located in the 64 Mississippi counties that would become regulated. Inclusion of all 64 counties within the marketing area will encompass the great bulk of the fluid milk sales areas of these Mississippi dealers. Data showing the proportion of total sales in each of the 64 counties by various dealers was not presented. However, the record evidence indicates that in 56 of these counties, two or more of the 12 distributing plants have route distribution, while in seven counties only one dealer distributes in each. An additional county (Claiborne) has no large towns located there and is primarily rural. It lies between Jackson and Natchez, and is surrounded within Mississippi by other counties included herein. It is reasonable to expect that the population in Claiborne County is served by Jackson dealers, and others who would be regulated by the order.

Two dealers who would become regulated under the order presented detailed evidence with respect to route distribution in the 36 counties in which they distribute milk. These counties are scattered throughout the 64-county area and route sales in these counties by one or more of the 12 distributing plants exceed 70 percent of the total fluid milk product sales in each county. Thus, dealers who would be regulated by this order have the major portion of the sales in these counties.

For a number of years prior to May 1, 1973, virtually all of the Mississippi portion of the marketing area recommended herein was regulated, initially by three separate Federal orders and beginning in 1970, by a single order as a consequence of a three order merger. During April 1973 the Secretary found that the cooperative association representing a majority of the producers engaged in the production of milk for sale in the marketing area favored termination of the Mississippi order. Accordingly, on April 30, 1973, the Secretary terminated all of the provisions of the former Mississippi order, except those concerning the continuing obligations of handlers for milk received prior to the termination. The cooperative that requested termination of the Mississippi order is the proponent, in this proceeding, of the New Orleans-Mississippi order. A representative of the cooperative testified that as a policy matter, Dairyman, Inc. had believed that the Mississippi market could operate effectively without Federal regulation. But, the absence of such regulation since 1973 has "nullified" the idea that milk marketing could remain orderly without Federal regulation.

Expansion of the New Orleans marketing area to include the territory herein recommended was proposed by Dairyman, Inc. (D.I.). This producer cooperative association represents a major proportion of the producers supplying milk to handlers regulated under the New



Orleans order and dealers located in Mississippi who would become regulated as a result of this decision. Gulf Dairy Association, a cooperative association whose producer members supply milk to certain New Orleans regulated handlers and to other dealers located in Louisiana supported proponent's proposal to expand the New Orleans marketing area.

The spokesman for the proponent cooperative testified that the entire territory contained in their proposal represented a single marketing area. Proponent supplies about 63 percent of the milk pooled under the New Orleans order and estimated that it supplies about 50 percent of the milk that would be pooled under the proposed extension. Proponent based the need for the enlarged marketing area primarily on the competition for milk supplies in a common production area between handlers in the New Orleans area and dealers in the expanded territory. In this connection, the association presented testimony and evidence which showed that (1) 27 percent of the New Orleans supply originates in Mississippi, (2) both areas compete for the same manufacturing outlets in disposing of the fluid reserve and seasonal production, (3) proponent's receiving station at Franklinton, Louisiana, supplies both New Orleans handlers and Mississippi dealers, and (4) previously when the two markets were separately regulated, numerous producers supplied both the New Orleans and the Mississippi markets during the same month. Thus, in proponent's view, the New Orleans marketing area and the Mississippi area cannot, under prevailing marketing conditions, be considered as separate markets.

Gulf Coast Dairymen's Association (Gulf Coast), also representing dairymen serving the market, proposed that the former Mississippi order be reinstated to provide separate regulation of the Mississippi segment of the market.

Another producer's association, Marketing Assistance Program (MAP), which represents about 50 Mississippi dairymen, opposed the expansion of the New Orleans order into Mississippi. It supported a regional order that would include Mississippi, Louisiana, and portions of Tennessee and Alabama. It opposed the reinstatement of the Mississippi order unless it contains provisions for an economic-type formula for pricing Class I milk, and provisions prohibiting unfair trade practices. Proposals concerning such area and such provisions had been submitted to the Department by the association for consideration at this hearing. However, after due consideration the proposals were denied for this proceeding. The consideration of such matters, therefore, is outside the scope of this proceeding.

It is noted further that the use of an economic formula for pricing Class I milk in all orders was considered by the Department in a final decision issued January 14, 1971 (36 F.R. 921) official notice of which is hereby taken.

A fundamental consideration concerning the use of an economic formula for

the proposed New Orleans-Mississippi order would be the coordination of Class I milk prices among Federal order markets. Such coordination is needed because milk for Class I use moves readily between and among Federal order markets. Without price coordination, disparities in the normal price relationships may encourage the uneconomic movement of milk and disruption of markets. The use of an economic formula for the New Orleans-Mississippi area would seriously impede the continued coordination of Class I prices among Federal orders to promote the orderly marketing of milk.

Two dealers operating distributing plants, in Hattiesburg, and Jackson, respectively, supported the reinstatement of the Mississippi order. A third dealer who operates a plant in Laurel, stated that essentially, he was not taking a stand on the marketing area proposals, but preferred a separate order for Mississippi. A handler located in Memphis and regulated by the Memphis order supported a Federal order to stabilize marketing conditions throughout Mississippi.

One of the dealers who would be regulated by the proposed order testified that the Class I utilization at his plant has dropped substantially since the Mississippi Federal order was terminated. This, he indicated, resulted from the disorderly conditions which have existed in the market since 1973. As a result of the decline in Class I utilization, returns to his dairy farmer patrons have been reduced. The plant is supplied largely by "independent" dairymen among whom, according to the dealer, there is a great deal of dissatisfaction over the lower prices.

A Bogalusa, Louisiana, dealer (Washington Parish) and the dairy farmers who furnish his milk supply opposed the inclusion of the three Louisiana parishes in the expanded New Orleans marketing area. They testified that the three parishes should be included in the marketing area of the proposed Greater Louisiana order. Under a separate proceeding, the marketing area considered for that order would encompass the entire State of Louisiana outside the New Orleans marketing area with the exception of the three parishes. Both the dealer and his dairy farmers maintained that his greatest competition for retail sales in the three parishes comes from a dealer located in St. Tammany Parish and handlers who would be regulated under the Greater Louisiana order.

A dealer who operates distributing plants in Tupelo, Mississippi, and in the State of Alabama opposed Federal regulation of the 64 Mississippi counties. He testified that such regulation probably would result in regulation of his plants in Tupelo and Mobile. At the time of the hearing, his Tupelo plant was regulated under the Memphis Federal order and his Alabama plant was fully subject to the pricing regulation of the State of Alabama. The representative of the cooperative association that supplies milk to this dealer's Tupelo plant and to a

dealer in Jackson also testified in opposition to regulation of the Mississippi area.

A Memphis regulated handler located at Grenada, Mississippi, proposed that some of the counties in northern Mississippi be excluded from the proposed Federal order and later be made a part of the Memphis order. However, no specific supporting testimony concerning this area modification was presented on the record.

Disorderly marketing conditions prevail in the handling of milk throughout the proposed area of extension, and the record evidence is that such conditions are deteriorating.

Since the termination of the Mississippi order in 1973, there has been no reliable procedure for establishing class prices to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk. There has been on impartial audit of handler's records to verify the payments of applicable prices. There has been no system for verifying the accuracy of weights and butterfat content of the milk purchased and there has been no method of providing uniform returns to producers supplying the market based upon an equalization sharing among all producers supplying the Mississippi market of the lower returns for the sale of reserve milk which cannot be marketed as Class I milk.

As indicated, there has been no uniform system for paying dairymen according to the utilization of their milk since the demise of the Mississippi order. This has caused differences in prices to neighboring dairymen, resulting in general dissatisfaction and in continuing shifting of supplies from dealer to dealer. Essentially, producers are receiving "flat" prices for their milk with no assurance that any of such milk is being priced according to how it is used.

The witness for one cooperative association in Mississippi described the situation of one handler who, under regulation, had received the milk of member producers of the association for many years for use in fluid milk products. In the unregulated situation, however, the handler began to purchase the milk for fluid use from another group of dairymen in northern Mississippi, and informed the cooperative association that he would take their milk in the future for manufacturing uses only. This action reduced the pay price to all of the cooperative association's members 24 cents per hundredweight and forced the association to seek another Class I outlet for this milk. This situation, he held, reflects the deteriorating market in the absence of a uniform classified pricing plan and illustrates the problems dairy farmers in Mississippi are encountering without Federal regulation. He indicated further that milk (from outside Mississippi), which otherwise would be used for manufacturing purposes, is being brought into Mississippi and displacing the Class I sales of local dairymen. In light of these conditions he held that a Federal order is needed to regularize the marketing of milk within Mississippi.



There was essential agreement among most participants at the hearing that Federal regulation of the Mississippi area is desirable and would contribute greatly toward the achievement of orderly marketing conditions. There was disagreement, however, among some participants as to the method of achieving orderly marketing conditions. The proponent cooperative association proposed that the Mississippi area be combined with the New Orleans area while other participants proposed that separate regulation be provided for the Mississippi area.

The issuance of a marketing agreement and order for the combined New Orleans-Mississippi area is concluded to be the most appropriate means of effectuating the declared policy of the Act. Marketing conditions throughout the entire proposed area to be regulated justify the issuance of a single order. The minimum sanitary requirements applicable to Grade A milk throughout the present and proposed marketing area are those of the State of Louisiana and Mississippi, which are patterned after the U.S. Public Health Ordinance and Code. While there may be some variations, such variations are not of a nature which would materially affect the procurement or distribution of milk within the area. It is noted, however, that while the regulations are similar, there is no reciprocity between the States of Louisiana and Mississippi. As a result, packaged milk does not move freely between the two states.

The primary procurement area for handlers regulated under the present New Orleans order consists of five Louisiana parishes and seven Mississippi counties. In these 12 parishes and counties there is general competition for milk supplies among New Orleans handlers and Louisiana and Mississippi dealers.

In December 1974, for example, there were 496 Grade A dairymen in the seven Mississippi counties, 267 delivered their milk as producers to New Orleans handlers, 45 delivered to Louisiana dealers outside New Orleans and 184 delivered to Mississippi dealers. The vast majority of the dairymen located in the five Louisiana parishes delivered their milk as producers to New Orleans handlers. The majority of all these Louisiana and Mississippi dairymen are members of the proponent cooperative association.

The total production of milk in Mississippi has declined substantially over the past decade, while the volume of packaged fluid milk sales has increased substantially. Should this continue, Mississippi fluid milk plants can be expected to draw more supplies from the southern part of the state in competition for the milk supply moving to the New Orleans market. Amite, Lamar, Livingston, Lincoln, Marion, Pike, and Walthall counties, Mississippi represent the area of greatest interrelationship between the New Orleans and Mississippi milksheds.

Because of the proponent cooperative's varied arrangements for supplying deal-

ers and disposing of surplus milk, many members of the cooperative have no regular association with a specific market or dealer. Within a single month, milk of individual members may be moved to two or three plants, some of which may be regulated under the New Orleans order. Many of the producer members who are located in Mississippi may deliver their milk to New Orleans regulated plants and to Mississippi plants during the same month. The cooperative supplies 9 of the 12 Mississippi milk dealers who would be regulated by the order provided herein, and it is the major supplier of the New Orleans pool plants.

A representative of the proponent cooperative testified that Dairymen, Inc. directs milk within the New Orleans-Mississippi area with the aim of minimizing transportation costs, an economic objective rather than one of mere convenience. Also, the association moves milk to facilitate its disposition to available outlets.

An important consideration in whether a combined New Orleans-Mississippi order should be provided is that the proponent cooperative association's nonpool plant in Franklinton, Louisiana, performs a balancing function for distributing plants in both Louisiana and Mississippi. This is the overriding factor which the opponents of a combined order do not recognize in citing their reasons for reinstating a separate Mississippi order. The Franklinton plant manufactures excess milk supplies and furnishes supplemental milk, as needed, to a very large proportion of the handlers and dealers in both areas. In 1974, milk transferred for Class I use from the Franklinton plant to Mississippi dealers amounted to 7.8 million pounds and to New Orleans handlers it amounted to 7.5 million pounds. Also, much of the reserve milk supply for the New Orleans-Mississippi marketing area is processed at this plant. When capacity is not available at this plant, or at the five Mississippi manufacturing plants cited in the record, the proponent cooperative has disposed of the excess to more distant locations in Tennessee, and North Carolina.

The cooperative does not supply milk from the Franklinton plant when there are members in Mississippi whose milk can be shipped direct to a Mississippi plant. While it is preferable, and efficient, to move milk direct from farms to Mississippi plants, there are times when it is necessary to store milk at Franklinton for delivery to plants in New Orleans and Mississippi on peak bottling days. Hence, the facility is used for supplying plants both in New Orleans and Mississippi.

There are presently 5 plants that manufacture dairy products in Mississippi. The number of manufacturing plants in Mississippi has decreased significantly in recent years. The five plants are the only outlets that are available locally in Mississippi to handle daily reserves and seasonal production. New Orleans handlers and Mississippi dealers compete vigorously for access to the

Mississippi manufacturing plants as an outlet for their reserve milk supplies. Thus, these processing facilities are not reserved exclusively for excess milk produced in Mississippi. The total daily capacity of the 5 plants for handling the market's reserve is about 1.3 million pounds a day. The capacity of the Dairymen, Inc. facility at Franklinton, Louisiana, is about 850,000 pounds daily. The combined capacity is inadequate to handle the market reserve over certain holidays and during the months of March through May.

In 1974 and into 1975, it was necessary for the Mississippi Division of Dairymen, Inc. to ship bulk milk out-of-state to dispose of the reserve supply of fluid milk and flush season excess. When outlets were not available at all times in Mississippi and Louisiana to handle the milk, it was moved to Tennessee, and North Carolina. While the local plants may not necessarily have been operating at capacity, they were not willing to handle the milk. In the spring of 1974, cheese plants curtailed milk procurement because of the rapid build-up of cheese inventories nationally. This left the proponent cooperative with the major burden of disposing of milk not needed for fluid use. Clearly, the burden of surplus disposition falls heaviest on the proponent cooperative association.

When separate orders were in effect for New Orleans and Mississippi, there were numerous dairymen who were qualified producers under both orders. During the last year that the Mississippi order was effective (1973), as many as 466 dairy farmers were in this status, and the volume of milk involved, for a single month, reached 1.7 million pounds. With a single order, these producers would have been on the one market the entire time, rather than being split between the two Federal order markets with the result that the producers assigned to the New Orleans market, although supplying a necessary part of the fluid milk needs of Mississippi handlers obtained lower returns associated with the handling of the reserve supplies of milk for the Mississippi market. Such a situation reflects disorderly marketing conditions and promotes considerable unrest among producers. These conditions prevail at present as between the New Orleans and Mississippi markets.

In view of these circumstances, separate regulation of the Mississippi and Louisiana areas under consideration would not be effective in promoting orderly marketing and equality among producers. The adoption of a single regulation for this area will insure more orderly marketing and a more equitable sharing of the proceeds from the sale of their milk among all producers supplying the various segments of the market.

The groups opposed to the inclusion of Mississippi and three Louisiana parishes in the New Orleans marketing area contended that the marketing area defined in a Federal order should encompass only that territory in which dealers compete generally for fluid milk sales, and that



from a distribution standpoint, there is virtually no competition between New Orleans handlers and dealers in Mississippi or in the three Louisiana parishes.

Only two New Orleans pool plants sell Class I milk into Mississippi, and such sales are primarily in Hancock, Harrison, Jackson, and Pike counties. The combined distribution would be no more than 7 percent of the total fluid sales in these counties. Some of the Louisiana dealers (including New Orleans handlers) do bid on contracts with Federal military installations in Mississippi. Generally, however, Louisiana plants do not distribute milk in Mississippi because they have not been successful in obtaining permits. If the situation should change the competition for sales in Mississippi would intensify.

Expansion of the New Orleans area to include only the southern tier of eight Mississippi counties where New Orleans handlers distribute milk would result in the regulation of several dealers located further north in Mississippi, who generally compete with other dealers in the other segments of the Mississippi area being considered.

Although current institutional factors reduce competition between Louisiana and Mississippi dealers at the retail level, this cannot be an overriding consideration in this proceeding in determination of the territory to be included in the marketing area. These institutional factors can and do cause dissatisfaction among dairymen who supply milk to distributing plants in these areas. Whenever artificial barriers are established, the burden of handling the reserve supplies of milk associated with the protected market(s) may be passed to another group of dairymen with the result that neighboring dairymen in a common production area, and often supplying the same processors, receive different prices for their milk. Certainly, if there were no regulatory barriers to the movement of milk between the states, Louisiana and Mississippi dealers doubtless would compete for sales throughout a large portion of the marketing area recommended herein.

Those opposed to any combination of the New Orleans-Mississippi area pointed out that historically Mississippi has always had separate Federal regulation. However, the question in this proceeding is whether current marketing conditions justify a single order for the New Orleans-Mississippi area. A historical overview, such as was presented on the record, demonstrates clearly the development of the single Mississippi order from three separate milk orders. This development is not, of itself, an impediment to further combination with the New Orleans area. In fact, based on the marketing conditions in evidence in this proceeding, such combination is but a part of the historical progression of the area towards an order of regional aspect.

An argument presented by one opponent of combining the New Orleans-Mississippi areas was that if any combination of areas is justified, it should be that

of the non-federally regulated areas in Louisiana with the New Orleans area. This issue was not a part of the considerations of this proceeding, and the testimony which was permitted by the presiding Administrative Law Judge was extraneous material outside the scope of the hearing notice.

Another argument presented in opposition to the combination of the New Orleans-Mississippi area was that such action should not be taken because Mississippi produces more than enough of the Grade A fluid milk needs of Mississippi consumers. This is not the point at issue. There is clearly a very substantial overlap of the supply area of New Orleans and Mississippi processors, and the unstable conditions which have developed since withdrawal of the Mississippi regulation can be corrected only by restoration of a regulation that insures continuing equity among area farmers in a common production area.

It is evident that the supply of milk for Mississippi is not stationary and reserved exclusively for use within Mississippi. It moves, readily, from market to market and the financial burden of surplus milk disposition is borne disproportionately by Dairymen, Inc., a major supplier of milk to Mississippi dealers. There is no evidence that "independent" dairymen absorb any of the surplus milk in the market, and it is clear that the other dairy farmer associations, if they handled any surplus milk at all, could only account for a very minor portion of such handling by reason of their limited representation in the market.

A further argument offered was that an order combining the areas would serve no public interest but rather would provide a "convenient tool" for Dairymen, Inc. to exploit its "regional economic power" to the detriment of "independent" supply competition. In this connection, the Agricultural Marketing Agreement Act did not necessarily contemplate that a marketing area should cover all the territory within which a given cooperative operates. Otherwise, it would not have provided specifically that a cooperative may rebundle the proceeds from its sales in all markets. The record evidence of this hearing establishes that disorderly marketing conditions now prevail in the Mississippi area. The order provided herein will serve the public interest by establishing uniform prices to handlers, by establishing a use-classification plan, by providing audit of handlers' records and by other means promote the orderly marketing of milk.

Another argument in opposition to a combination of the areas was that the higher Class I prices of neighboring states, particularly Louisiana, would work to the disadvantage of Mississippi producers who would not have access to such higher prices. In this connection, the level of the Class I price is but one aspect of Federal milk regulation for a market. An important aspect of such pricing under an order is that it is uniformly applied to all handlers—a cir-

cumstance that is notably lacking in Mississippi under present marketing conditions. The Marketing Agreement Act, under which orders are promulgated, provides that the class prices established by an order shall be minimum prices. The fact that regulations administered by neighboring states may prescribe higher Class I prices to apply to part of the supply for the Federally regulated market, or that within a market certain service charges or premiums may be added to the minimum prices of an order, are not sufficient grounds to impede the promulgation of an order which can benefit producers, consumers and milk dealers through the implementation of more orderly marketing.

In establishing the total scope of the marketing area, the three parishes in Louisiana (Washington, Tangipahoa, and St. Tammany) require particular consideration.

The Bogalusa, Louisiana, dealer and his dairy farmer suppliers testified that the three Louisiana parishes should be regulated under the proposed Greater Louisiana order, which is being considered in a separate proceeding. However, the issue to be resolved on the basis of this record is whether these three parishes should be included in this marketing area as proposed in the hearing notice.

The dairymen who deliver milk to this dealer and to the Abita Springs dealer (in these three parishes) are located in the same supply area as the New Orleans market. The witness for the dairymen who deliver milk to the Bogalusa dealer stated that most of his neighbors in Washington Parish who do not deliver to this dealer are producers on the New Orleans market and members of proponent cooperative association. Further, he stated that his blend price each month is substantially higher than his neighbors who deliver to the New Orleans market. To a certain extent, however, the New Orleans producers have subsidized his higher blend prices by absorbing the excess milk associated with the supplemental milk received by his dealer. Proponent cooperative association's Franklinton facility also provides a convenient outlet for the Bogalusa dealer's excess milk.

Primarily, the Bogalusa dealer and his dairymen want to be part of the Greater Louisiana market because they believe that order will have a higher blend price. They testified that if they became subject to the New Orleans order their blend price would be reduced. This would not happen, they said, if they were subject to the Greater Louisiana order.

The proposed Greater Louisiana order would provide for the marketwide pooling of producer returns. Thus, it is likely that there will be a close relationship between the blend price of that order and the New Orleans-Mississippi order since there will always be the incentive for producers to associate milk with the market where the returns are greatest. Presently, each local Louisiana dealer pays his dairymen on the basis of his individ-



nal utilization of milk. The individual dealer pooling of dairy farmer returns encourages dealers to limit their supplies of dairy farmer milk. If he handles only enough reserve milk to balance his packaged milk sales, he is able to pay a higher blend price to his dairymen than dealers who have a greater proportion of milk used in manufacturing.

Under a Federal marketwide pooling arrangement all handlers with an above average market utilization must pay the difference in utilization value into a producer-settlement fund. These monies are then distributed by the market administrator to those handlers whose utilization is below the market average. In this manner, all producers in the market receive the same uniform price irrespective of how their milk is utilized by the particular handler to whom they deliver. It is expected that if these orders become effective with marketwide equalization of producer returns, the blend prices of the respective orders will have a tendency to equalize.

The three Louisiana parishes should be included in the New Orleans-Mississippi marketing area since the dealers distributing in these parishes who would become regulated rely upon the New Orleans market for balancing supplies. Proponent cooperative and the cooperative association associated with the New Orleans market that supported proponent's proposal supply supplemental milk during the short production months to the Bogalusa dealer. In addition, this dealer relied on proponent's Franklinton manufacturing plant to handle any excess receipts.

Several witnesses testified that from the standpoint of competition for retail sales, handlers in Memphis, Tennessee, are a more significant factor in Mississippi than are New Orleans handlers. They maintained that since the major competition for retail sales comes from Memphis handlers, rather than New Orleans, it would place Mississippi dairymen and dealers in an intolerable situation if Mississippi and New Orleans were regulated under the same order. The record evidence indicates that Memphis handlers distribute milk in 21 of the 64 Mississippi counties.

As previously indicated, the fact that Louisiana handlers have little distribution in Mississippi reflects institutional factors unrelated to economic considerations. The cooperative associations that deliver milk to the 12 unregulated Mississippi dealers do not supply milk to Memphis handlers. Conversely, there is a very substantial interchange of milk as between New Orleans handlers and Mississippi dealers as proponent cooperative association supplies much of the milk used by these two groups of distributors. No such relationship exists between Mississippi and Memphis. The Memphis milk supply emanates primarily from Tennessee and Arkansas. The volume of milk obtained from Mississippi is a very minor part of the market's needs. A substantial part of the Mississippi milk associated with Mem-

phis is received by plants in northern Mississippi that are now regulated by the Memphis order. This situation likely will change when the New Orleans-Mississippi order is effective since one of the principal handlers of northern Mississippi has a plant at Grenada and it is likely that such plant will be regulated by such order. However another such handler located at Tupelo may adjust his business to keep the plant regulated by the Memphis order.

With the close interrelationship in location, milk supply and producer representation, orderly marketing in the area will best be achieved by adding the three Louisiana parishes and 64 Mississippi counties to the New Orleans marketing area.

It is concluded that a uniform price plan applicable to all handlers purchasing milk for sale in the expanded area will stabilize and improve marketing conditions in the area. Accordingly, regulation of the Louisiana and Mississippi territory described elsewhere herein, will effectuate the declared policy of the Act by providing for:

1. The establishment of uniform prices to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

2. An impartial audit of handler's records to verify the payments of required prices;

3. A system for verifying the accuracy of weights and butterfat content of the milk purchases; and

4. Uniform returns to producers supplying the market based upon an equalization sharing among all producers supplying the expanded market of the lower returns for the sale of reserve milk which cannot be marketed as Class I milk.

The public interest will be served by establishing orderly marketing conditions for milk in the proposed area that will assure a continuing and adequate supply of fluid milk for the area at reasonable prices. Accordingly, the proposals to provide separate Federal regulation for certain areas in Mississippi, and to exclude from regulation the Louisiana Parishes of St. Tammany, Tangipahoa, and Washington are hereby denied.

It is concluded also that, except as modified by this decision, the present provisions of the New Orleans order are equally appropriate for the extended marketing area and they are hereby adopted for the identical reasons advanced in the decision adopting such provisions in the order.

2. *Class I price and in-area location adjustments.* The Class I price for the New Orleans-Mississippi market should be established on the basis of a New Orleans "Zone 1," with prices applicable at plants in other locations to be determined through the use of location adjustments. Such Class I price should be the basic formula price for the second preceding month plus a Class I differential of \$2.85.

For purposes of applying location adjustments, the marketing area should be divided into 5 pricing zones. The location adjustment for each zone, the resulting Class I differential (shown parenthetically), and the Louisiana parishes and Mississippi counties that should be included in each zone are as follows:

**ZONE 1—NO ADJUSTMENT (\$2.85)**

*Louisiana Parishes*

|              |              |
|--------------|--------------|
| Jefferson.   | St. Bernard. |
| Lafourche.   | St. Charles. |
| Orleans.     | Terrebonne.  |
| Plaquemines. |              |

**ZONE 2—MINUS 18 CENTS (\$2.67)**

*Louisiana Parishes*

|              |             |
|--------------|-------------|
| St. Tammany. | Washington. |
| Tangipahoa.  |             |

*Mississippi Counties*

|           |              |
|-----------|--------------|
| George.   | Jackson.     |
| Hancock.  | Pearl River. |
| Harrison. | Stone.       |

**ZONE 3—MINUS 40 CENTS (\$2.45)**

*Mississippi Counties*

|                  |            |
|------------------|------------|
| Adams.           | Lincoln.   |
| Amite.           | Madison.   |
| Clalborne.       | Marion.    |
| Clarke.          | Neshoba.   |
| Copiah.          | Newton.    |
| Covington.       | Perry.     |
| Forrest.         | Pike.      |
| Franklin.        | Lawrence.  |
| Greene.          | Rankin.    |
| Hinds.           | Scott.     |
| Issaquena.       | Sharkey.   |
| Jasper.          | Simpson.   |
| Jefferson.       | Smith.     |
| Jefferson Davis. | Walthall.  |
| Jones.           | Warren.    |
| Kemper.          | Wayne.     |
| Lamar.           | Wilkinson. |
| Lauderdale.      | Yazoo.     |
| Leake.           |            |

**ZONE 4—MINUS 55 CENTS (\$2.30)**

*Mississippi Counties*

|            |             |
|------------|-------------|
| Attala.    | Montgomery. |
| Bolivar.   | Noxubee.    |
| Carroll.   | Oktibbeha.  |
| Choctaw.   | Sunflower.  |
| Holmes.    | Washington. |
| Humphreys. | Webster.    |
| Leflore.   | Winston.    |
| Lowndes.   |             |

**ZONE 5—MINUS 65 CENTS (\$2.20)**

*Mississippi Counties*

|          |               |
|----------|---------------|
| Calhoun. | Quitman.      |
| Coahoma. | Tallahatchie. |
| Grenada. | Yalobusha.    |

The proponent cooperative for the extended New Orleans-Mississippi order proposed that the basic formula price now used under the New Orleans order be continued in the expanded order. The present basic formula price in the New Orleans order is based on pay prices for manufacturing grade milk at plants in the States of Minnesota and Wisconsin. This basic formula price is used in setting Class I prices under all Federal orders. Its continued use under this order will implement interorder price alignment by insuring that Class I price



changes under this order will remain coordinated with those under all other orders. In addition, because the Minnesota-Wisconsin manufacturing pay price is a competitive pay price reflecting supply-demand conditions for milk produced by dairy farmers who incur about the same production costs, the use of this price will tend to insure an appropriate price level necessary to an adequate supply of milk.

At the hearing two central problems evolved concerning Class I price levels in the Mississippi portion of the marketing area. One problem concerned the price relationship in Mississippi with prices under the Memphis order. The other problem concerned the price structure within Mississippi in the area north of the six Gulf Coast counties (the Mississippi counties included in Zone 2).

Proponent cooperative association proposed that the Class I price for the market be established for the New Orleans area, with prices applicable at plants in other areas to be determined through the use of appropriate location adjustments. Under its proposal the marketing area would be divided into four zones with Zone 1 including all of the Louisiana portion of the marketing area plus the six Gulf Coast counties in Mississippi. They proposed that Zone 3, as recommended herein, be divided into two pricing zones and that the remainder of the marketing area be included in a fourth pricing zone with a 19-cent difference in the Class I price between zones.

As proposed, the Class I differential applicable at the eleven distributing plants presently regulated under the New Orleans order, the two additional Louisiana distributing plants that would become regulated as a result of this decision and a distributing plant in Biloxi, Mississippi would be \$2.85. The Class I differential at distributing plants located in Brookhaven, Hattiesburg and Laurel, Mississippi would be \$2.66, at distributing plants in Canton, Jackson (2), and Meridian, Mississippi it would be \$2.47 and at distributing plants in Columbus, Greenville, Grenada, and Kosciusko it would be \$2.28.

At the hearing proponent offered two alternative zone proposals that recognized the two special pricing problems described above. Proponent maintained that one alternative would improve the pricing relationship with Memphis and the other would improve the price structure within Mississippi in the area of greatest competition.

The two cooperative associations that supported the reinstatement of the previous separate Mississippi order, proposed the same Class I differentials as existed in the former order. The previous Mississippi order provided for a Class I differential of \$2.47 in the six Gulf Coast counties and Greene County, and \$2.31 in the remainder of the marketing area. However, in its post hearing brief one of these cooperatives (MAP) argued that there should be no location adjustments by zones in Mississippi.

A nonmember dairy farmer who delivers his milk to a distributing plant in

Jackson testified against the establishment of zone prices within the marketing area on the grounds that a lower price level for the Jackson area would be disadvantageous to him.

Several dealers testified concerning the Class I differentials to be applied within the marketing area. Three dealers who operate distributing plants in Brookhaven, Hattiesburg and Laurel, Mississippi proposed that there be only a single Class I differential area to encompass the 58 Mississippi counties north of the six Gulf Coast counties. The operator of a distributing plant in Jackson did not oppose the establishment of four zones in the 64 Mississippi counties but he urged a Class I differential for the Jackson area of \$2.31 and a 14-cent difference in Class I prices between zones. A dealer who operates distributing plants in Greenville and Grenada, Mississippi testified that the Class I price level applicable at his two plants should not be more than the Memphis price applicable at these locations. Presently, the Grenada plant is regulated under the Memphis order and the Class I differential applicable at that location under the Memphis order is \$2.10.

Two handlers, one operating a pool plant under the existing New Orleans order and the other operating a plant regulated under the Memphis order, also testified on Class I price levels. The New Orleans regulated handler testified that prices applicable in Louisiana and Mississippi, regardless of the order regulating this territory, should be coordinated with the prices in the proposed Greater Louisiana order market. The Memphis handler stated that the Class I price in New Orleans is high relative to Memphis and should be lowered 31 cents to \$2.54.

A witness representing three Mississippi dealers testified that any Class I price level established for neighboring Louisiana would create havoc if applied throughout Mississippi, and especially in northern Mississippi where dealer competition with Memphis handlers is an important consideration.

Historically, the Chicago milkshed has been a major source of supplemental supplies for markets throughout much of the United States, including the Mississippi markets. The cooperative proposing the expanded order indicated that during the short production months it must import milk into Mississippi from the Upper Midwest. To reflect the variable cost of moving milk from the Upper Midwest to distant markets, Class I prices in Federal order markets gradually increase in relation to the distance from the Chicago area. This structuring is reflected in the price levels in the markets to the north of Mississippi and appropriately must be a consideration in this proceeding. Substantially, the gradation of prices from market to market reflects a differential approximating 1.5 cents per hundred-weight per 10 miles.

The Class I price structure recommended herein for the New Orleans-Mississippi market should provide the

proper balance between adequate milk supplies and the necessary alignment of prices not only with other markets but also among the various segments within the market.

Because the New Orleans metropolitan area is a major fluid outlet for milk, the New Orleans area must be a decisive consideration in determining the location value for milk delivered to all plants in the Louisiana and Mississippi portions of the marketing area.

Basically, the Class I price structure for the New Orleans-Mississippi market should be established at a level which, in conjunction with the Class II and Class III prices, will result in returns to producers sufficient to insure an adequate, but not excessive, supply of pure and wholesome milk for the market. This has been the basis for the existing price established by the order and there is no basis on this record to change the Class I price level in the New Orleans area.

The Class I differential of \$2.85 in New Orleans has been in effect for many years and the market is adequately supplied with milk. Data for the New Orleans order indicate that producer receipts in 1973 were 169 percent of the total Class I utilization of regulated handlers. For 1974, this figure was 172 percent. Even in the short production months of September, October, and November, supplies were sufficient to fully meet Class I needs of the area. In 1973 and 1974, producer receipts during this three-month period were 125 percent and 132 percent, respectively, of Class I use.

It would not be appropriate to lower the Class I differential at New Orleans, as was suggested by one witness who operates a plant regulated under the Memphis order. The witness claimed that handlers regulated under the Memphis order would be distributing milk in New Orleans at the present time if it were not for the barriers on milk sales set by the State of Louisiana. In this connection, it is not unusual for handlers regulated under one Federal order to have route distribution in the marketing area of another Federal order. The record evidence does not demonstrate the present Class I price level in New Orleans is inappropriate or that it is contributing to disorderly marketing conditions.

It is necessary to determine appropriate prices at all locations at which milk is delivered by producers, thereby facilitating the orderly movement of milk from farms serving the major market centers. Class I milk prices at plants located outside the present New Orleans area must be lower than the price in New Orleans, otherwise, producers would not have an incentive to deliver their milk to New Orleans distributing plants. The economic value of milk to the producer is determined by the alternative outlets for his milk. If this value is not properly reflected in the Class I price at various locations, the milk, over time, would not be available to plants at those locations.

At the plant locations outside the present New Orleans marketing area a series



of price zones that will relate the value of milk in New Orleans to the south and in Memphis to the north must be established. New Orleans is approximately 400 miles south of Memphis and the difference in Class I differentials is 91 cents (\$2.85 at New Orleans minus \$1.94 at Memphis).

The record evidence indicates that most of the dairymen supplying milk to the market are within the proposed marketing area, although there are some Mississippi dairymen outside the marketing area and some Arkansas dairymen who deliver to the market. The greatest number of dairymen within the marketing area are located in Tangipahoa and Washington Parishes, Louisiana, and the southwest Mississippi counties of Amite, Lincoln, Marion, Pike, and Waltham. Of the total 1685 producers within the entire marketing area in December 1974, nearly three-fourths of them (1157) resided in these seven counties and parishes. Further, within the 64 counties in Mississippi, about one-half of all the dairymen are located in the five southwest counties enumerated above.

In the two Louisiana parishes of Tangipahoa and Washington, there were 675 dairymen, of whom 612 producers delivered to New Orleans regulated handlers. The remaining 63 dairymen in these two parishes delivered to plants located in the State of Florida and in Louisiana but outside New Orleans. Some of these 63 dairymen delivered to the two Louisiana dealers who would become regulated as a result of this decision.

In the five Mississippi counties enumerated above there were 482 dairymen; 262 delivered to New Orleans handlers, 177 delivered to Mississippi dealers and the remainder delivered to Louisiana, outside New Orleans.

Within the Mississippi portion of the market there are two other areas containing heavy concentrations of dairymen. Virtually all of the dairymen in these two areas deliver milk to Mississippi dealers. In the northeast corner of the marketing area in the six counties of Lowndes, Neshoba, Newton, Noxubee, Oktibbeha, and Winston there were 219 dairymen and in the six Gulf Coast counties there were 90 dairymen.

The \$2.85 Class I differential applicable in the present New Orleans market will continue to provide an incentive for producers to deliver their milk to distributing plants located in New Orleans, which includes nearly one-third of the total marketing area population.

Plants located outside the present New Orleans marketing area but within Louisiana and the Gulf Coast counties in Mississippi would be in Zone 2. The four distributing plants and the cooperative's balancing plant located in this zone will have an 18-cent lower price than applies at New Orleans. Biloxi, Mississippi and Kentwood, Louisiana are slightly more than 85 miles from New Orleans, Bogalusa and Franklinton, Louisiana are about 70 miles and Abita Springs, Louisiana is about 40 miles from New Orleans. A Class I differential of \$2.67 applicable

at plants in this zone should assure handlers operating plants at these locations of an adequate supply of milk.

There are seven distributing plants and one supply plant located in Zone 3. The Class I differential applicable in this zone will be \$2.45. These plants are at Brookhaven, Canton, Hattiesburg, Laurel, Meridian and Jackson. In Jackson there are two distributing plants and a supply plant operated by proponent cooperative association. Brookhaven, which is the closest city in this zone to New Orleans, is about 135 miles north of New Orleans. Canton and Meridian, the two cities in this zone furthest away from New Orleans, are about 200-210 miles north and northeast, respectively, of New Orleans. Jackson, the largest city in the Mississippi portion of the marketing area is about 190 miles north of New Orleans and about 210 miles south of Memphis. There are no cities in Mississippi approaching the size of Memphis and New Orleans. Any division of this area into two price zones with the lower price applicable in the Jackson area (an alternative proposed at the hearing), could, over time, jeopardize an adequate supply of milk for handlers in the Jackson metropolitan area and would ignore the historical procurement and distribution patterns among handlers in the area comprising Zone 3 as proposed herein.

There are three distributing plants and a supply plant located in Zone 4 where the Class I differential will be \$2.30. The distributing plants are located in Columbus, Greenville and Kosciusko and the supply plant is in Macon. Kosciusko is located about 70 miles north of Jackson. Greenville is about 115 miles northwest of Jackson. Columbus is about 150 miles northeast of Jackson and 90 miles north of Meridian.

Only the plant in Grenada will be subject to the \$2.20 Class I differential applicable in Zone 5. This plant is located about 55 miles north of Kosciusko, 115 miles north of Jackson and 100 miles south of Memphis.

The Class I prices established at these various locations are anticipated to assure adequate available supplies of milk at each plant location. In the absence of any local supply, a handler would have to procure milk from other areas. Thus, the value of milk at his plant location necessarily should reasonably reflect the cost of obtaining milk from alternative supply sources. Also, the price established at any given plant location must reflect the value of local milk in relation to more distant plants to the south where the price is higher. If the local price is too low relative to this "opportunity" price at other locations, the local supply will be attracted to other areas.

The Class I price structure under the order is not intended to assure each handler in the market that he will have an identical procurement cost at any location in which he may choose to distribute milk. Its purpose is to assure handlers, and ultimately consumers, of an adequate milk supply. A handler may

distribute milk wherever he chooses. Should he decide to sell in an area where handlers have a lower procurement cost, he must assume any competitive risks involved.

The Class I differential applicable in Zone 5 would result in a Class I price at the present Memphis regulated handler's plant in Grenada 10 cents per hundredweight above the Memphis price at that location, if the plant becomes regulated under this order. Because of Grenada's location relative to the remainder of the marketing area, it is not feasible to have a Class I differential applicable in Grenada of less than \$2.20 over time, otherwise, the handler would have difficulty in maintaining an adequate supply of milk.

As marketing conditions in the Mississippi portion of the proposed marketing area are now extremely disorderly, there is no effective price alignment with other markets, and no certainty for any particular dealer that the prices paid by his competitors for milk are rational. The price structure proposed herein will reestablish orderly marketing conditions by providing a rational basis for establishing milk prices with due consideration given to intermarket price alignment and competitive equities among handlers who would be regulated.

**Out-of-area location adjustments.** Provision should be made also for location adjustments at plants outside the marketing area. The Class I price at plants outside the marketing area but in the States of Louisiana and Mississippi should be adjusted for location on a zone pricing basis. In Louisiana, the zone prices should be related to Class I prices under the proposed Greater Louisiana order in that area. At a plant located in the State of Alabama, the Class I price should be the Class I price applicable at Columbus, Meridian, Pascagoula, or Tupelo, Mississippi, whichever city is nearest to the plant. At other out-of-area plants, a minus 45-cent per hundredweight location adjustment should apply to Class I milk received at a plant located in excess of 150 miles from the City Hall in New Orleans, Louisiana. For each additional 10 miles or fraction thereof beyond 160 miles the minus 45-cent location adjustment should be increased at the rate of 1.5 cents per hundredweight.

The cooperative proposing the New Orleans-Mississippi order urged that the zone prices established within the marketing area and south of the Louisiana-Arkansas border be extended in an east-west direction so that any plant located outside the marketing area but east or west of the southern portion of the marketing area would have the same zone price as if it were located within the marketing area. At plants located outside the marketing area and north of the Louisiana-Arkansas border the cooperative would apply a minus 20-cent location adjustment at plants located more than 50 but not in excess of 60 miles from the nearer of New Orleans, Louisiana or Pascagoula, Mississippi. Beyond 60 miles



they proposed that the location adjustment be increased at a rate of 2.0 cents per hundredweight for each additional 10 miles or fraction thereof.

A dealer who operates a distributing plant in Jackson also proposed a location adjustment of minus 2.0 cents per hundredweight for each 10 miles or fraction thereof. The dealer supported a separate order for Mississippi and, thus, he proposed using Jackson and Meridian as basing points. Further, he would provide no location adjustment at any plant located outside the marketing area but within 50 miles of either Jackson or Meridian.

A witness appearing on behalf of Gulf Coast's Dairymen's Association, and also for three dealers, testified in favor of adopting the location adjustment provisions contained in the previous Mississippi order. That order provided a minus 10-cent location adjustment at plants more than 60 miles but less than 160 miles from Gulfport or Pascagoula, Mississippi plus an additional 1.5 cents per 10 miles beyond 160 miles. MAP adopted the testimony of this witness. Two Memphis regulated handlers testified in favor of the location adjustment rate of 1.5 cents per 10 miles. One of these handlers stated if there is to be any change in the location adjustment rate, it should be based on a national hearing so that all Federal orders could be on the new rate at the same time.

The Class I prices established under the proposed Greater Louisiana order applicable at various locations within the marketing area have been determined through the hearing procedure to be the minimum prices necessary to attract an adequate supply of milk at plants within each applicable zone. As was pointed out on the record of this hearing by a New Orleans regulated handler, the pricing structure in the Greater Louisiana order must be coordinated with the pricing structure under this order. A comparison of the two decisions will reveal that this coordination has been accomplished. Also, the location adjustment provisions here adopted will accomplish the objective sought by proponent cooperative with respect to out-of-area plants located south of the Louisiana-Arkansas border. Should a plant located in one of the zones in the Greater Louisiana marketing area become regulated under this order, it would not change the minimum price necessary to attract an adequate supply of milk to that plant on a normal and regular basis. If the price were allowed to decrease, for example, because the plant became regulated under this order, the supply of milk available to the plant could be jeopardized over a period of time. Producers supplying milk to the plant would seek a higher-valued alternative market represented by the other plants that remained regulated under the Greater Louisiana order. It is appropriate, therefore, to have the Class I price under the New Orleans-Mississippi order reflect the same level as the Class I price established under the Greater Louisiana order for plants located in the defined zones within the Greater Louisiana

marketing area. If such plant is regulated by the New Orleans-Mississippi order.

To implement this arrangement, the following location adjustments should apply at Louisiana plants within the parishes listed in the following zones:

(1) NO ADJUSTMENT (\$2.85)

|            |                       |
|------------|-----------------------|
| Acadia.    | Jefferson Davis.      |
| Ascension. | Lafayette.            |
| Asumption. | St. James.            |
| Calcasieu. | St. John the Baptist. |
| Cameron.   | St. Martin.           |
| Iberia.    | St. Mary.             |
| Iberville. | Vermilion.            |

(2) MINUS 19 CENTS (\$2.66)

|                   |                   |
|-------------------|-------------------|
| Allen.            | Pointe Coupee.    |
| Avoyelles.        | Rapides.          |
| Beauregard.       | St. Helena.       |
| East Baton Rouge. | St. Landry.       |
| East Feliciana.   | Vernon.           |
| Evangeline.       | West Baton Rouge. |
| Livingston.       | West Feliciana.   |

(3) MINUS 38 CENTS (\$2.47)

|               |               |
|---------------|---------------|
| Bienville.    | Lincoln.      |
| Bossier.      | Madison.      |
| Caddo.        | Morehouse.    |
| Caldwell.     | Natchitoches. |
| Catahoula.    | Ouachita.     |
| Clalborne.    | Red River.    |
| Concordia.    | Richland.     |
| De Soto.      | Sabine.       |
| East Carroll. | Tensas.       |
| Franklin.     | Union.        |
| Grant.        | Webster.      |
| Jackson.      | West Carroll. |
| La Salle.     | Winn.         |

At a plant located in Mississippi but outside the marketing area the Class I price should be the same as the Class I price applicable in Zone 5. This territory is just North of the marketing area and encompasses 18 counties, six of which are within the Memphis, Tennessee, marketing area. Several distributing plants located in these 18 counties presently are regulated under the Memphis order and are subject to a plus location adjustment under that order. The applicable Memphis Class I price at these plants is about 10 cents lower than the price recommended herein to be applicable under this order for plants located in that area. However, because the Memphis order provides individual-handler pooling handlers in that market for competitive reasons maintain a high Class I utilization. Hence, the 10-cent differential in Class I prices as between the two orders in this area will have a minimal procurement impact on Memphis handlers. Pool plants located in these 18 counties will compete for milk supplies with other pool plants that are located within the New Orleans-Mississippi marketing area as well as with Memphis handlers. A Class I differential applicable in these 18 counties lower than \$2.20 would deter plants regulated under this order in the development of an adequate supply of milk from producers.

If a plant located in the State of Alabama becomes regulated under this order, the location value of milk at such plant would be the same as the location value of milk in Mississippi. Alabama is located adjacent to the eastern border of Mississippi. Class I prices in Alabama

must reflect the same increasingly higher Class I prices from north to south that are necessary to obtain an adequate supply of milk at various locations in the eastern part of Mississippi. Accordingly, the Class I price at a plant located in Alabama should be the Class I price applicable at Columbus, Meridian, Pascagoula, or Tupelo, Mississippi, whichever city is nearest.

At a plant located outside the areas described above and more than 150 miles from the City Hall in New Orleans, Louisiana, a minus 45-cent location adjustment should apply to Class I milk. At plants located beyond 160 miles the minus 45-cent location adjustment should be extended at the rate of 1.5 cents for each additional 10 miles or fraction thereof. Such distance should be based on the shortest hard-surfaced highway distance as determined by the market administrator.

Plants that would be subject to such adjustment generally will be located north of the marketing area in Arkansas and Tennessee. Location adjustments computed at this rate will result in Class I prices at plants in southwestern Tennessee, just north of the Mississippi-Tennessee border, that are aligned with the Class I prices under this order and would be reduced at the rate of 1.5 cents for each 10 miles distance that the plant is located from the marketing area if such plants become regulated by this order. Further, such location adjustments are reflective of costs in moving milk to the central market and will implement uniformity of pricing as among handlers for both milk received at the market from distant plant locations and milk received at the market direct from farms.

The proposed location adjustment rate of 2.0 cents per 10 miles should not be adopted. Such a location adjustment rate for plants located outside the marketing area would not result in the proper alignment of prices in this market with prices in markets to the north. As set forth previously in this decision, a series of price zones are established within the marketing area that will relate the value of milk in New Orleans to the south and in Memphis to the north. At plants located north of the marketing area a location adjustment rate of 1.5 cents per 10 miles must be maintained to preserve interorder price alignments. As described earlier, intermarket price relationships are based on this transportation rate.

Further, a paramount consideration in establishing an appropriate price level is the assurance of an adequate milk supply for the regulated market. It is clear that prices in Federal order markets in the region have generated ample milk supplies. Under such circumstances, it is neither appropriate nor necessary to establish higher prices in this market solely to reflect the currently higher transportation costs for moving milk. Such objective can only be accomplished through a general hearing covering all Federal orders. At any such hearing, one of the matters which would have to be resolved would be how this might be accomplished within the limits of the present variation



in Class I prices from north to south. Further, if the total difference in prices north to south were to be increased, an important consideration at such hearing would center on how this might be accomplished under the standards of the Act and existing supply-demand relationships.

The language in the present New Orleans location adjustment provisions specifying that the distances shall be determined using only "toll free" highway distances should be deleted. Proponent cooperative requested this deletion because under today's energy conditions trucks hauling milk to New Orleans will use the shortest distance, even when that involves using the toll bridge across Lake Pontchartrain. Accordingly, the location adjustment provisions should provide the use of the "shortest highway distance" rather than the "shortest toll-free highway distance."

**Location adjustment credits.** The provisions in the present New Orleans order limiting Class I location adjustment credit on bulk milk transferred between plants should be modified.

In conjunction with its pricing proposal, proponent cooperative urged the continuation of the New Orleans order provisions that preclude the application of location adjustments under certain conditions. A supply plant some distance from the market, for example, may ship producer milk to a distributing plant, with the two plant operators claiming a Class I use of the milk. Normally, the pool obligation of the supply plant operator for the producer milk transferred as Class I milk would be the Class I price as adjusted for the location of his plant, rather than the f.o.b. market price. There may be those cases, however, where the distributing plant receiving supply plant milk has sufficient milk from local direct-ship producers to cover most or all of its Class I sales. In this situation the supply plant milk is not needed at the market for Class I use and the New Orleans order would not apply a Class I price location adjustment at the supply plant. Thus, the supply plant operator would not receive the location adjustment credit otherwise applicable with respect to his pool obligation for the Class I producer milk so transferred.

The basic concept of this limitation on location adjustment credits should be carried forth under the expanded order. To adopt this concept to the pricing structure adopted herein (which includes the announced Class I price for Zone 1 with minus price adjustments at other locations) it is necessary that the location adjustment credit provisions be revised. The basic intent, though, is to insure that producers on the market do not have their returns lowered through the granting of price credits on milk unnecessarily moved between pool plants for other than Class I use.

In this connection, location adjustment credits should not apply to Class I milk shipped to pool plants in lower-priced zones. Although this would not be a usual movement of milk, such move-

ment could occur in situations where a plant in Louisiana or Gulf Coast of Mississippi received milk in excess of its fluid requirements, and sought to market such excess with handlers in Jackson or Meridian, for example. The Class I price levels established in Louisiana and the Gulf Coast are contemplated to attract milk to these areas for Class I use there, not for reshipment to lower priced zones. The latter should not be encouraged through the granting of price credits on such milk movements. If the prices provided tend to attract greater quantities of milk than are needed locally, then consideration should be given to whether a lower price should be provided.

Distributing plants relying on supply plant milk for Class I use should be encouraged to draw such milk from the nearest plant or plants. It is possible that near-in supply plant milk might be claimed as having been used in Class III, for example, while an equivalent amount of more distant supply plant milk received at the city might be claimed as having been used in Class I. Although the more distant plant would be eligible for a location adjustment credit under the provisions adopted herein, such credit would be limited, in this example, to the lesser credit that would have been applicable to the near-in supply plant milk had it been classified as Class I milk.

**3. Partial payments to producers and cooperatives.** The rate at which partial payments for producer milk are made should be changed from the Class III price for the preceding month to 90 percent of the uniform price for the preceding month, adjusted for location of the pool plant.

The present New Orleans order requires handlers to pay producers by the last day of the month for milk received during the first 15 days of the month, except those producers who discontinued shipping milk to such handler before the 25th day of the month. The rate of payment is the Class III price for the preceding month. Handlers must pay cooperatives authorized to collect payment for the milk of its member producers at least 2 days before the last day of the month.

Proponent of the New Orleans-Mississippi order proposed that handlers be required to make separate partial payments for producer milk received during each of the first two 10-day delivery periods of the month. Under their proposal these payments would be due on or before the 7th day following each of these 10-day periods at 90 percent of the previous month's uniform price to all producers who would still be delivering milk to him on the payment dates.

Proponent cooperative's spokesman recognized that the proposed changes would increase handlers' cost for milk, but held they are needed to improve the cash flow to dairy farmers. He contended that dairy farmers, faced with increasing production costs and greater demands for cash for purchasing items needed to continue producing milk, ur-

gently need payment for their milk at a higher rate and at more frequent intervals. Higher interest rates for borrowed money since 1971-72 were cited in particular as justifying more frequent payments to producers.

Several handler representatives testified in opposition to this proposal. They maintained that increasing the number of payments to producers each month would increase the cost of milk to handlers, and ultimately to consumers. It was estimated that the increased cost would amount to about 1.5 cents per hundredweight on all producer milk. Also, they opposed increasing the rate of partial payment to 90 percent of the previous month's uniform price because it would very likely result in an overpayment to some individual producers. The representative of MAP stated that they also opposed this proposal.

Increasing the partial payment rate to 90 percent of the previous month's uniform price should be adopted. This will provide producers a larger portion of the value of their milk through partial payments. Since the partial payment applies only to the first 15 days' deliveries by producers who still ship milk to the handler on the 25th day of the month, there could be little likelihood of overpayment. Based on data for the New Orleans market only, the proposed 90 percent rate would have increased the partial payment for producer milk delivered in 1974 by an average of \$0.91 more than the actual partial payment rate.

Under the order recommended herein, significant quantities of producer milk will be delivered to pool plants at which uniform prices because of location adjustments will be lower than the announced uniform price for the market. To decrease the possibility of overpayment to producers delivering milk to these plants, the previous month's uniform price should be adjusted for the location of the pool plant.

The proposal to require two partial payments each month should not be adopted. Providing an additional advance payment to producers each month would increase handler costs and would not in any way change the total monies producers received in a 30-day period. It would be unreasonable to adopt procedures which would result in increased handler costs, and, ultimately higher prices to consumers, to resolve a cash flow to individual producers which seemingly could be resolved through the exercise of prudence on the part of the producer in handling his accounts. Further, requiring handlers to make partial payments on the same day that determines the eligibility of the producer to receive the partial payment could greatly increase the possibility of overpayments to producers.

**4. Pool plant.** The "pool plant" definition should be revised to set forth all of the requirements that a plant must meet in order to be defined as a pool plant. For this reason, definitions of a "distributing plant" and a "supply plant" are deleted. Further, the pooling qualifica-



tions for a plant operated by a cooperative association should be revised.

The New Orleans order now provides that, except for the 1,500 pound daily average in-area route distribution standard, the pooling standards for a distributing plant or a supply plant are measured in terms of the proportion of its receipts that is disposed of from the plant. These standards should be revised to specify that such receipts include producer milk that is diverted from the plant to other plants. Although diverted milk is not physically received at the plant from which diverted, it is, nevertheless, an integral part of the plant's supply of milk.

Unless diverted milk is included as a plant receipt for purposes of determining such plant's eligibility for pooling, the pooling standards would have only minimal substantive meaning. Such standards are intended to insure that the milk supplies which are permitted to share in the Class I proceeds through pooling are only those supplies reasonably associated with the Class I market.

Thus, when referring herein to a plant's receipts used in computing pooling percentages, it is intended that such receipts include producer milk diverted from the plant by both the plant operator or by a cooperative association.

The pooling provisions for distributing plants contained in the present New Orleans order specify that any plant approved for the handling of Grade A milk is a pool plant if during the month its total route disposition equals 50 percent or more of its Grade A receipts from producers, cooperative associations as handlers on bulk tank milk and supply plants, and its route disposition in the marketing area equals or exceeds the lesser of a daily average of 1,500 pounds or 20 percent of such receipts.

The Jackson dealer who supported a separate order for Mississippi testified that the in-area pooling percentage for distributing plants should be lowered from 20 percent to 10 percent. The witness for Gulf Coast stated that he favored lowering the 20 percent standard but believed that a substantial association with the market was necessary before pooling a distributing plant. The representative for DI urged that the 1,500 pound daily average standard be kept in the order. The operator of distributing plants in Tupelo, Mississippi and Mobile, Alabama, opposed any pooling standard for distributing plants lower than 20 percent.

Requiring that a pool distributing plant dispose of at least 50 percent of its Grade A receipts from the above described pool sources on routes is consistent with the general supply situation for this area. There was no proposal at the hearing to reduce or to increase the 50 percent factor, and it should be retained. Likewise, it is concluded herein that the standards relating to the 1,500 pound daily average sales within the marketing area should be continued, and that the 20 percent in-area route requirement should be reduced to 10 percent.

The 1,500 pound daily average sales standard could cause at least two distributing plants located outside the marketing area to become fully regulated. The dealer who operates these plants in Tupelo and Mobile testified that 1.4 percent of his Tupelo plant's sales and 13 percent of his Mobile plant's sales would be in the marketing area and would amount to more than 1,500 pounds per day. At the time of the hearing, the Tupelo plant was regulated under the Memphis Federal order and the Mobile plant was subject to a pricing regulation of the State of Alabama. To the extent the handler's sales from the Tupelo plant in the Memphis marketing area exceed its sales in this marketing area, the Tupelo plant would remain regulated under the Memphis order and have no financial obligation under this order.

With respect to the dealer's Mobile plant, it is reasonable to impose full regulation under this order on all its sales if it has route disposition in the marketing area which exceeds the volume factor provided in the order. Dealers with substantial sales in the marketing area should be subject to full regulation. With route disposition exceeding 10 percent of Grade A receipts the Mobile dealer meets this criterion.

It is necessary to continue to provide the minimum volume standard of 1,500 pounds per day due to the nature of the combined area proposed herein. The Mississippi portion of the marketing area is primarily rural. A large plant located outside the marketing area and distributing just under 10 percent of its receipts into the area would constitute a very considerable competitive impact in the relatively sparse marketing area. In these circumstances, competitive equity as between handlers can best be achieved by continuing to provide the disposition factors presently provided in the order. Thus, the Mobile plant, and any other plant similarly situated, would not be expected to remain outside full regulation when its sales in the marketing area are a significant factor.

Such regulation is necessary to insure the integrity of the uniform price plan and its objectives of maintaining orderly marketing for producers.

It is necessary, moreover, that a plant, wherever located, that distributes within the standards provided herein be subject to full regulation on all of its Class I distribution, including that which is outside the marketing area. If only the plant's in-area sales were subject to order pricing, the operator of the plant could assign any value he might choose to his out-of-area sales. He thereby could reduce the average cost of all his Class I milk below that of fully regulated handlers having all of their Class I sales within the marketing area. Unless his route sales both inside and outside the marketing area were fully regulated under the order, the plant operator in effect would not be subject to effective price regulation. It would not be possible in this circumstance to enforce uniform class

prices with respect to those handlers who are in substantial competition with one another. The absence of effective pricing would disrupt orderly marketing conditions within the regulated marketing area and could lead to a complete breakdown of the order.

The supply plant pooling requirements contained in the present New Orleans order should not be changed on the basis of this record, except for the modification described earlier to include diverted milk in computing the plant's total receipts.

Presently a supply plant is pooled in any month in which it ships at least 45 percent of its receipts from dairy farmers to pool distributing plants. If the plant is pooled in each of the months of August through November it is accorded pool plant status for the following months of December through July regardless of its shipments to distributing plants during such months.

Proposals were made by MAP to tighten the pooling requirements for supply plants. One of their proposals would raise the percentage of milk a supply plant must ship to pool distributing plants from 45 percent to 50 percent. To obtain automatic pooling status during the months of February through July they proposed that such plant would have to ship 75 percent of its receipts to pool distributing plants during the months of August through November.

At the time of the hearing there were no supply plants pooled under the New Orleans order. The spokesman for DI stated, however, that they operated receiving stations at Jackson and Macon, Mississippi, which might qualify as pool supply plants under the order. At the present time they did not anticipate qualifying their Franklinton plant.

There is no basis on this record to change the supply plant pooling requirements. Proponent for changing this pooling standard based his request solely upon his desire to prevent possible "predatory practices" by cooperative associations. However, he did not demonstrate that such abuses had occurred in this market and did not present any factual testimony showing the need to raise the shipping requirements. Accordingly, the proposal is denied.

The provisions in the present New Orleans order that allow a cooperative association operating one or more plants to meet the supply plant pooling requirements by including all member-dairy farmer milk delivered directly from farms to pool distributing plants as being considered to have been first received at that cooperative's plant located nearest New Orleans and then shipped therefrom to such distributing plants should be revised. Such plants perform a "balancing" function for the market rather than a "supply" function. The pooling provisions should accommodate the pooling of such plants based on their service to the market rather than as supply plants. Such a balancing plant, if it has no route distribution, should be pooled if during the month 50 percent or more of the milk of the cooperative's member



producers is physically received at pool distributing plants from farms or by transfer from the cooperative's balancing plants for which pool status is requested. Such pool status should be limited to those plants that are located in the marketing area and approved by a duly constituted regulatory agency for disposition of Grade A milk in the marketing area. The plant should not be pooled as a balancing plant if it meets the pooling standards on the basis of performance under any Federal order, including this order.

Proposals were made by MAP that the special provisions for pooling a plant operated by a cooperative association should be deleted. They proposed further, that if these provisions were not deleted then they should be amended to increase the shipping requirement to 75 percent and to specify that such plant must be located in the marketing area.

Presently, no plants of cooperative associations are pooled under the New Orleans order, although D. I.'s Franklin, Louisiana operations typify the usual concept of cooperative balancing plants. Pool status for such plants, however, should be available to facilitate the efficient handling of reserve milk associated with the market.

When milk of some producers who regularly supply the market is temporarily not needed by distributors, their milk can be pooled by delivery to a balancing plant. The plant thus is an assured outlet for reserve milk without involving arrangements under which the producers' milk would need to be diverted from distributing plants in order to keep the milk pooled on the market.

Pool status for such plants facilitate also the transfer of milk from cooperative balancing plants to pool distributing plants. Although milk should be moved when possible directly from the farm to distributing plants, there still are occasions when balancing plants are called upon for supplemental supplies.

Only those plants located in the marketing area should be eligible for pooling under the pool balancing plant provisions. The marketing area proposed herein encompasses virtually all of the distributing plants that are expected to be pooled under the order, as well as most of the production area for the proposed market. In this situation, it is only those cooperative association plants located in the marketing area that can be expected to perform the typical market balancing function as described above.

It is necessary that there be a reasonable demonstration that the milk pooled through balancing plants is a part of the regular market supply. Milk should not be permitted to be associated with the market merely for manufacturing purposes since this would reduce returns to producers and discourage the production of an adequate supply of milk by those producers regularly supplying the fluid market. Any performance requirements for a balancing plant per se would be inconsistent, of course, with the bal-

ancing function of the plant. For this reason, the pooling of a cooperative balancing plant should be contingent on its function with respect to the milk supply for the fluid market and this is reasonably reflected in how much of the cooperative's total milk supply from member producers is furnished to pool distributing plants.

Under present conditions, at least 50 percent of the milk of member producers should be delivered each month to pool distributing plants to qualify a cooperative's balancing plant for pooling. This will assure a substantial association of the cooperative's total milk supply with the fluid market and will minimize the opportunity to pool unneeded milk through balancing plants.

Adoption of the 75 percent delivery requirement, as was proposed, could be expected, on the other hand, to jeopardize a cooperative association's ability to qualify its balancing plant for pool status, even though the plant might be performing a valid balancing function for the market. A performance requirement at the 75 percent level is not necessary to assure that any needed proportion of the total milk supply will be made available for fluid use or to preclude the addition of substantial milk supplies solely for manufacturing use.

Pool plant status should be accorded only those cooperative balancing plants located in the marketing area that are approved by a duly constituted regulatory agency for disposition of Grade A milk in the marketing area. Such a provision is necessary to assure that the plant can be depended upon for supplemental milk supplies when such are needed by distributors. Since the order would not require any minimum shipments to the market from a cooperative balancing plant, it is conceivable that the plant might not take the necessary steps to maintain its health approval, thereby precluding the plant from being able to transfer milk to pool distributing plants. Further, there would always exist the possibility that the milk being received there from dairy farmers was not in fact of fluid quality and therefore entitled to share in the Class I proceeds of the market.

A distributing plant that has route disposition in two marketing areas reasonably should be regulated in the market in which it has the greater route sales. However, if a plant that has been regulated under this order should have greater route disposition in another market, the plant should remain regulated under this order until the third consecutive month in which it has greater route disposition in the other marketing area. This procedure should limit the casual, disruptive shifting between orders on a month-by-month basis that can occur when intermarket distributing results in qualifying a distributing plant for pooling under more than one order. This provision, which is not contained in the present New Orleans order, could have relevancy in the future with promulgation of the

Greater Louisiana order in determining under which of the two orders a plant would be regulated.

The pool plant provisions, also, should provide that a supply plant qualified for pooling under this order and under another order be regulated by the order under which it makes the greater shipments. However, it should provide further that pool status would not apply to a supply plant that has automatic pool status under another order but also qualifies as a pool plant under this order. On the other hand, a plant having automatic pool status under this order should remain pooled under this order (if the plant operator chooses to retain such status) even though the plant qualifies for pooling status under another order.

5. *Producer-handler.* The producer-handler provisions contained in the present New Orleans order should be modified.

As adopted herein, a "producer-handler" would be any person who operates a dairy farm and a processing plant and who receives no fluid milk products from sources other than his own farm production and by transfer from pool plants and other order plants. Any such receipts from pool plants and other order plants during the month could not exceed a daily average of 1,500 pounds. A producer-handler could not dispose of any other source milk in the form of a fluid milk product except through the addition of nonfat milk solids to fortify fluid milk products received from his own farm or from pool plants. To qualify as a producer-handler, such person would have to provide proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

Presently, the New Orleans order defines a producer-handler only as a dairy farmer who operates a distributing plant at which no fluid milk or fluid milk products are received during the month except his own farm production or transfers from pool plants and who has no receipts of milk products other than fluid milk products disposed of as Class I milk. There is no provision in the present order that such person provide proof satisfactory to the market administrator that all of the resources necessary for his own production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

A dealer and dairy farmer in Columbus, Mississippi, who stated he probably would be the only producer-handler under the order proposed that producer-handlers be permitted to receive a daily average of 1,500 pounds of fluid milk products from other handlers. He also proposed that producer-handlers be permitted to purchase manufactured dairy products for sale in the same packages. There was no opposition to this pro-



posal. The spokesman for D.I. testified that the present New Orleans provisions permit unlimited receipts of fluid milk products from pool plants by producer-handlers. He stated that since all fluid milk products sold to a producer-handler are classified and priced as Class I milk he saw no reason to place a limitation on the quantity a producer-handler could receive from pool plants.

The proponent Columbus dealer operates a 50-70 cow milking herd, a processing and packaging plant and sells all his milk through his own retail store. He has no retail routes. He buys packaged products from other dealers and sells them in his retail store along with some nondairy items. Proponent stated that he buys supplemental milk from other dealers only when his own production is short seasonally or when his milking herd has been downgraded by the health authorities.

Experience under Federal orders has demonstrated that effective regulation can be insured without the full regulation of individuals who produce, process, and distribute substantially only milk produced on their own farm and who buy no milk from other dairy farmers. The exemption from pricing and pooling of producer-handlers, however, should be limited to bona fide producer-handlers. Without appropriate safeguards milk distributors with own-farm production might be encouraged to seek producer-handler status.

Various business arrangements may be used to acquire an appearance of a true producer-handler operation. To preclude the use of such devices the order should provide that the producer-handler must provide proof satisfactory to the market administrator that the maintenance, care, and management of the dairy animals and all other resources used to produce the milk as well as the resources required for the distribution of the milk are each the personal enterprise and the personal risk of the person who claims producer-handler status.

Operators who receive milk from their own farm production and who rely on other plants for substantial supplemental supplies either in bulk or packaged form are not significantly different from the operations conducted by pool handlers. In addition, such individuals do not assume the risk or cost of providing a full supply for their own needs. If such operations are not pooled, the pool does not receive the benefits of their Class I sales but acts as a supply balance for these producer-handlers by carrying their necessary reserve milk supplies.

Notwithstanding the above conclusion, it is appropriate that producer-handlers be permitted some tolerance for purchasing fluid milk products from other plants. A limitation of 1,500 pounds per day average during the month on a producer-handler's purchases from pool plants and other order plants will insure against the unintentionable involvement in regulation of producer-handlers as a group while, at the same time, deterring larger handlers with own farm produc-

tion from evading the pooling of such production by seeking producer-handler status.

**6. Administrative assessment.** The rate of assessment for administration of the order should be increased to 5 cents per hundredweight from the 4-cent rate now provided.

It was proposed by the Department that the maximum rate of administrative assessment be increased 1-cent per hundredweight to recognize the current and probable increased costs of administering the order. Presently, the New Orleans market administrator's budget for 1975 shows a deficit of \$30,647. Increasing the rate 1 cent would project a surplus of \$24,353 for this year. The operator of a distributing plant in Jackson opposed the proposed rate increase. He maintained that the market administrator's office should be operated at reduced costs.

Generally, market administrators are expected to maintain a reserve fund that would cover their operating expenses for up to six months, which monies normally would be needed to carry out the market administrator's responsibilities in the event an order was withdrawn for any reason. If the reserve fund exceeds projected operating expenses for a greater length of time, then the administrative assessment is usually suspended or the rate lowered until the reserve fund has market administrator must use some of been reduced. However, the New Orleans the money in his operating reserve fund at the present time to offset some of his increased expenses that have been brought about by higher prices.

Many of the costs associated with operating the market administrator's office are outside his control, since the functions are dictated by Congressional legislation. Thus, his ability to reduce costs are limited. Even so, the number of employees on the market administrator's staff has been reduced 25 percent over the past 2 years. It would not be feasible for the market administrator to reduce his operating expenses further if he is to continue fulfilling his duties of administering the order.

Expansion of the marketing area also will require additional expense by the market administrator to verify receipts and utilizations at handlers' plants that are scattered throughout virtually the entire State of Mississippi. The expense per handler likely will increase because at present, virtually all regulated handlers are located within the Greater New Orleans metropolitan area which greatly reduces travel expenses. It is not possible to know, at this time, whether or not the added funds collected from the newly regulated handlers will completely cover the additional expenses.

The Act requires handlers to pay the cost of operating an order through an assessment on milk handled. To assure that the market administrator will have sufficient funds to enable him to administer the order it is necessary to increase the rate to 5 cents. The present rate does not give this assurance. If exper-

ience indicates that at a later date a lower rate will be sufficient to provide adequate funds for the administration of the order, provision is made so that the Secretary may reduce the rate without the necessity of amending the order.

**7. Producer and Producer Milk.** The "producer" definition should be revised to refer to a "regulatory agency" rather than to a "health authority". Also, the "producer milk" provision should be revised to include, in the month in which picked up, milk picked up by a handler at the farm in a bulk tank truck but not received at a plant until the next month.

A requirement in the "producer" definition states that such person must produce milk in compliance with the Grade A inspection requirements of a duly constituted health authority. The term "regulatory agency" rather than the term "health authority", which has been used in the New Orleans order for some time, is a more appropriate term at the present time. The agency responsible for approving a dairy farmer for the production of Grade A milk may not always be designated as a health authority. In some states, for example, this function is the responsibility of the State Department of Agriculture.

The "producer milk" definition should be amended to provide that all bulk tank milk of producers picked up at the farm during the month is pooled in that month. The spokesman for D.I. testified that under the present New Orleans order producer milk picked up by the cooperative association in its bulk tank trucks on the last day of the month that is not delivered to a pool plant until the following month is considered producer milk in the month that it is picked up at the farm. However, milk picked up at a producer's farm in a tank truck operated by a handler on the last day of the month that is not received at the handler's pool plant until the following month is considered a receipt by the handler in the month it is physically received at the pool plant.

Dairy farmers need not be required to wait one and a half months before receiving the uniform price for milk that is picked up at their farms on the last day of a month but is not received at a plant until the following month. The accounting procedure will be simplified and should be more readily accepted if milk is pooled in all cases in the month in which it is picked up at the farm. The changes provided herein, will permit the pooling of producer milk in the month it is picked up at the farm, if the milk is received at a plant in the current or the following month. Milk which is picked up but not received at a plant until the following month will be included in the responsible handler's end of the month inventory and will be priced at the location of the plant where the milk is physically received in the following month. Since this milk reasonably will be received at a plant on the 1st or 2nd day of the following month, the handler will know the location of the plant of actual receipt in



time to include this information in his monthly report, which he files by the fifth day of the following month. If, however, none of the milk in the pick up tanker is subsequently received at a plant such milk will not be included in the handler's report and he will have no pool obligation on it. This conforms with the present provisions which tie the producer milk provisions to its receipt at a plant.

If the operator of a pool plant is the responsible handler he will account for this producer milk as part of his end of the month inventory and will be charged the Class III price in the month it is picked up at the farm. In the following month, this milk will be treated in the same manner as other fluid milk products he had in inventory.

If a cooperative association bulk tank handler is the responsible handler such cooperative will account for the milk in transit as inventory and at the Class III price and will be credited at the blend price. Additional conforming changes are needed to implement this procedure to insure that in the following month the cooperative is credited for its pool obligation in the preceding month on such milk. In such following month, this milk is included in the obligation of the pool plant handler who physically received it and he will account to the market administrator for this milk at the classified prices. Such monies would be deposited in the producer-settlement fund, but since the milk was pooled in the preceding month it would not be included in the pool computation of the current month.

It should be noted here that bulk tank milk being diverted by a cooperative from another handler's pool plant to a nonpool plant should not be included in the cooperative's ending inventory if the milk is in transit at the end of the month. Instead, the final accounting for the milk should be in the month in which it is picked up at the farm. The inventory accounting procedure is not necessary in this case since the cooperative is the only accountable handler under the order for such milk. The milk is received by the cooperative, of course, at the time it is picked up at the farm.

As provided herein, milk diverted from a pool plant would be included in the plant's receipts for purposes of determining whether or not the plant meets the applicable pooling standards. It is necessary under this procedure to safeguard against the possibility that a proprietary plant may not meet the pooling standards because too much milk was diverted from the plant by a cooperative, perhaps without timely knowledge of this by the plant operator. Accordingly, whatever quantity of milk diverted by a cooperative from a pool plant of another handler that would cause such plant to become a nonpool plant would be excluded from producer milk.

The proposal by MAP to reduce allowable diversions of producer milk by handlers and cooperative associations to nonpool plants from 35 percent of total producer receipts down to 20 percent should be denied. The witnesses for D.I.

and a handler regulated under the present New Orleans order opposed the tightening of this provision. These two witnesses claimed that the 35 percent limit is needed to efficiently handle the market's reserve supplies and any lowering of this percentage limit could cause disorderly marketing conditions. The result could be that the milk of producers who are regularly associated with the market might not be able to qualify as producer milk except through uneconomic handling of the milk.

Diversions provisions are desirable to facilitate the orderly and efficient disposition of the market's reserve milk supplies. When producer milk is not needed in the market for Class I use, its movement direct to nonpool plants for manufacturing without loss of producer milk status is desirable. The diversion provisions contained in the present New Orleans order have permitted the efficient handling of the market's reserve supplies without, at the same time, allowing the association of unneeded milk supplies with the market through the diversion process. Reducing the quantity of producer milk that could be diverted would result in extra handling of milk and additional transportation costs without providing any benefits to the market. Handlers would be forced to receive the milk first at a pool plant and then transfer the milk to manufacturing plants. This would be an uneconomic way of handling the market's reserve supplies and should not be encouraged.

8. *Marketing period.* The order should not be amended to provide for a marketing period on the basis of this record.

MAP proposed that the order should contain a marketing period to be defined as "the fiscal year beginning April 1 and ending on March 31." They also proposed that any termination of the order under § 608c(16)(b) not be permitted unless announced at least 90 days prior to the end of the current marketing period. There were no other proposals concerning a marketing period.

Proponent's witness indicated that the April 1-March 31 marketing period would parallel, and would be consistent with, the marketing year used under the price support program for manufacturing grade milk. Under this program, the Secretary announces annually the support price for milk marketed during the period of April 1 through March 31 of the following year. In addition, proponent suggested that dairy farmers generally make production plans a year at a time, and that the biological production cycle of milk cows covers a year.

A minimum of 90 days' notice of any order termination was intended by proponent to provide handlers and producers with at least this minimum opportunity to adjust their operations in light of the impending absence of regulation. They claimed that a substantial notification period is necessary so that handlers and producers may make business adjustments to meet the competitive environment of an unregulated market should the dominant cooperative in the

market elect to have the order terminated under § 608c(16)(b) of the Act.

Milk is produced and marketed by dairy farmers on a continuous basis. Because of its highly perishable nature, milk must be delivered within a day or two to plants for processing, the particular delivery schedule usually being dependent upon the storage capacity at the farm. In view of this daily and continuous character of milk production and marketing, there is no well defined marketing period for milk, either as a marketing year or as a season. Since the inception of Federal milk orders in the 1930's, however, milk has been accounted and paid for under the regulatory program on a monthly basis. At the end of each month, handlers are required to report all receipts of producer milk and make final payment therefor in accordance with the utilization of the milk during the month. Each successive month constitutes, in effect, a new marketing period for the producer and the handler. The consistent administration of milk orders on this basis over many years suggests that a defined marketing period of one year duration would be totally inconsistent with the long standing regulatory practice in the fluid milk industry.

The Federal Administrative Procedure Act requires that in the absence of emergency conditions any substantive rule evolving under a program such as the Federal order program shall be announced not less than 30 days before its effective date. Such Act also provides that notice is not required in the case of a rule that grants or recognizes an exemption or relieves a restriction. The withdrawal of an order in a market would relieve handlers from being subject to specific rules concerning their purchases of milk from dairy farmers (assuming no involvement with another regulated market). Further, termination of an order under § 608c(16)(b) of the Act occurs only after the Secretary publicly announces his findings that such termination is favored by a majority of the producers in the market. Providing a 90 day notification period would not permit reasonably timely action by the Secretary on the request of a majority of the producers once they decide that they no longer want an order for the market.

9. *Miscellaneous administrative provisions.*—(a) *Exemption of governmental agency plant.* A plant operated by a governmental institution should be exempt from regulation under the order. If fluid milk products are received at a pool plant from an exempt governmental agency plant they should be treated in the same manner as receipts from a producer-handler. If fluid milk products are transferred or diverted to an exempt governmental agency plant from a pool plant they should be classified as Class I milk.

The present New Orleans order does not contain such a provision because there are no such operations in the present New Orleans marketing area. However, in the Mississippi segment of the marketing area there are State operated processing plants and dairy farms. Both



of the witnesses for D.I. and Gulf Coast Dairymen testified that such a provision would be appropriate in the order that encompasses the 64 Mississippi counties.

On February 16, 1973, the Deputy Assistant Secretary issued a decision which would have exempted governmental agency plants from regulation under the Mississippi Federal order. The provisions contained in that decision were never incorporated into the order. However, the reasons set forth in that decision for exempting a governmental institution are equally applicable at this time with respect to marketing conditions in the New Orleans-Mississippi order as indicated by the record of this proceeding. Official notice is hereby taken of that decision (35 F.R. 4773) in which the Deputy Assistant Secretary gave the following reasons for exempting such plants:

"The primary purpose of these State dairy operations is to provide patients of the several Mississippi State mental hospitals with a wholesome supply of milk at the lowest possible cost to the taxpayers of Mississippi. The State's dairy farms also serve a useful rehabilitative purpose insofar as they provide patients with meaningful occupational therapy. Except for surplus milk disposed of in bulk to other plants, none of the milk produced or processed by these operations is sold in commercial channels in competition with handlers or with producers. Milk bottled by the three processing facilities is consumed on the premises by patients.

"There are other governmentally operated institutions in the marketing area maintaining dairy farms and processing facilities to furnish milk to their residents. Similarly, there is no indication that such institutions sell fluid milk products in commercial channels in competition with regulated handlers.

"As long as a governmental institution restricts its fluid disposition to its own residents, its plant need not be regulated in the same manner as plants of other handlers to achieve the objectives of regulation. Such an institution does not compete with regulated handlers for fluid sales and assumes the burden of disposing of its milk supplies in excess of its fluid needs. Its dairy operations are economically isolated from the operations of regulated handlers and therefore pose no threat to orderly marketing in the Mississippi marketing area."

Since the Class I milk used by the institution would not be pooled with the sales of producer milk, its excess production should not be allowed to share in the Class I utilization of pool plants at the expense of producers. Accordingly, fluid milk products that are received at pool plants from an exempt governmental institution plant should be allocated first to Class III milk and then to Class II milk. Any such milk allocated to Class I at a pool plant would be subject to a compensatory payment at the difference between the Class I and Class III prices.

A State institution may be required at times to purchase supplemental supplies from regulated handlers. It may be rea-

sonably expected that purchases in the form of fluid milk products would be needed for Class I purposes. Under these circumstances, producers are actually carrying the reserve for the exempt plant and should be allowed to retain the Class I use out of such sales to such plant. The order should provide, therefore, that fluid milk products transferred or diverted to exempt governmental institutions be classified as Class I milk.

(b) *Designation of a cooperative association as a handler on bulk tank milk.* The provisions designating a cooperative association as the handler on bulk tank milk it picks up at member-producer farms and delivers to pool plants of other handlers should be revised slightly. A cooperative association should continue to be a handler with respect to any bulk tank milk which it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative. However, should there be a mutual arrangement between the cooperative and the plant operator whereby the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the cooperative need not act in a handler capacity with respect to such milk.

Much of the milk received at pool plants in the proposed marketing area is picked up at the farm in trucks owned or operated by, or under the control of, cooperative associations. In this case, it is only the association that has the opportunity to measure and sample the milk of individual producers that is received at the pool plant. In the absence of any agreement by the plant operator to be the handler for the milk, the association necessarily must be the responsible handler for the milk as it leaves the farm.

When a cooperative is the handler for farm bulk tank milk, certain accounting and payment procedures apply under the order with respect to such milk. As provided in the attached order, the milk would be considered as a receipt of producer milk by the cooperative association at the location of the pool plant to which the milk is delivered. The purchase of such milk by the pool plant operator would be treated as an interhandler transfer but would be classified pro rata with producer milk that the pool plant operator may receive. The pool plant operator would be obligated to the producer settlement fund for the milk received directly from producers and by transfer from bulk tank cooperative handlers at its classified use value. The cooperative in turn would be paid the uniform price by the handler. This is in contrast to the procedure under the present New Orleans order whereby the cooperative accounts to the pool at class prices for milk delivered to pool plants.

The revised accounting and payment procedure will facilitate administration

of the order with respect to matters of financial responsibility and audit adjustments. It is the pool plant operator who processes the milk and distributes it to consumers. It is reasonable, then, that the responsibility for accounting for the utilization of such milk and for its payment be placed directly on the plant operator. The present arrangement in the New Orleans market, i.e., where the plant operator settles with the cooperative at class prices and the cooperative pays the producer-settlement fund, involves an unnecessary third party in the transaction. Also, the revised procedure will facilitate the handling of audit adjustments that might result from the verification of a plant's utilization of milk. An error in the reported classification of milk at the pool plant, for example, would not require a related adjustment in the cooperative's classification of milk and thus its obligation to the pool for such milk.

The pool plant operator should be permitted under the order to be the responsible handler on bulk tank milk moved by the cooperative from the farm to the plant if both the cooperative and the pool plant operator notify the market administrator that they have agreed to such a handler arrangement and that the plant operator agrees to purchase the milk on the basis of weights and tests determined at the farm. Under this arrangement, the pool plant operator would be responsible for the milk in the same manner as for producer milk that he receives at his plant directly from the farm.

(c) *Announcement of Class II price.* A dealer who operates a distributing plant in Jackson proposed that the Class II price for the month be announced on the 5th day of the preceding month and be based on the basic formula price for the second preceding month. A similar proposal was made by handlers and was denied in a 39-market proceeding concerning classification that included the New Orleans market. The present proceeding does not present changed circumstances that require a different conclusion with respect to the New Orleans-Mississippi market. The proposal is therefore denied.

(d) *Reports included in uniform price computation.* The order should include in the current month's uniform price computation the report of a handler who has not paid his producers for the preceding month.

The market administrator must compute the uniform price for each month by the 11th of the following month. Less than four weeks earlier (by the 15th of the month) handlers must have completed their payments for producer deliveries in the preceding month.

It is not administratively feasible to audit the records of all handlers between the final date when payments to producers for the preceding month were due and the date by which the next monthly uniform price must be computed. Within that limited period of time, it is not practicable for the market administrator



to determine that each handler has actually completed his payments to individual producers and cooperatives. Handlers' cancelled checks, for example, are necessary to verify such payments. They are received by handlers from their banks periodically, usually monthly, and it cannot be expected that all handlers' cancelled checks would be available for audit within the necessary time period.

In view of the above, the requirement to exclude from the current month's uniform price computation the report of a handler who has not paid his producers for the preceding month should be discontinued.

(e) *Marketing service deduction.* The proposed maximum deduction of 10 cents per hundredweight for marketing services should not be adopted. The present 5 cent rate in the New Orleans order is sufficient at this time to enable the market administrator to conduct an adequate marketing service program for nonmember producers supplying the market.

Gulf Coast proposed that the rate be increased to 10 cents because of their experience in providing services to members. Presently, with the 5 cent rate, the market administrator is performing an adequate marketing service program for those New Orleans producers not receiving such services (including weighing, testing, and providing market information) from a cooperative association. There was no indication on the record that the market administrator could not continue providing these services to producers in the enlarged marketing area at the same 5 cent rate. This rate is set to cover the costs incurred by the market administrator in performing the services, not to cover the costs incurred by cooperative associations for performing marketing services to their members. Accordingly, the proposal is denied.

(f) *Classification of transfers to nonpool plants.* The "pass-through" provisions contained in the section classifying milk transferred and diverted to nonpool plants should be deleted. This provision permits shipments of milk from a nonpool plant to pool distributing plants to be considered a transfer between pool plants if the nonpool plant had received an equivalent volume of milk from other pool plants. This provision was intended to implement the movement of milk from the cooperative's Franklinton (nonpool) plant to pool distributing plants as needed for fluid use. However, under the order modification hereinbefore discussed the Franklinton plant will have the ability to pool as a cooperative balancing plant and it is not necessary to accommodate its status as a nonpool plant.

As a result of the 39-market classification decision, the New Orleans order, as well as the other orders involved in that proceeding provide a uniform method for classifying milk received at a pool plant from a nonpool plant, which in turn had received an equivalent amount of milk from Federally regulated sources. In view of these uniform provisions, it would not be appropriate to continue this special provision for treat-

ing milk moving from one pool plant to another that passes through a nonpool plant in this order.

(g) *Deletion of obsolete language.* The attached order deletes certain obsolete language which has no application to the classification and pricing of milk under either the present or proposed order. Accordingly, such deletions will not affect the scope and application of the proposed order.

#### RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

At the hearing, the attorney for MAP presented a motion which would have enlarged the scope of the hearing. The motion was denied by the presiding Administrative Law Judge.

At a later point in the hearing the attorney submitted an offer of proof that the Department erred in not including in the hearing notice a proposal for an economic formula in pricing Class I milk. The offer was made for the purpose of establishing that a supplemental hearing should be held to consider such proposal.

The presiding Administrative Law Judge granted official notice of a document to accommodate the attorney's contention, and submitted into evidence an exhibit that was associated with such contention.

As indicated previously in this decision, the original request of MAP for an economic type formula was duly considered under the applicable rules and was denied for hearing in this proceeding.

The additional material which the presiding Administrative Law Judge, over the objections of numerous participants, allowed to be officially noticed and introduced as an exhibit represented extraneous material beyond the scope of the hearing notice.

Further, on the basis of the material thus introduced, and the findings heretofore discussed in this decision, concerning the appropriate marketing area, and the Class I price level, it is concluded that the decision of the Department to deny the proposal for hearing was correct.

#### GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings

and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1094.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

#### RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the New Orleans-Mississippi order. The following order regulating the handling of milk in the New Orleans-Mississippi marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

#### PART 1094—MILK IN NEW ORLEANS-MISSISSIPPI MARKETING AREA

##### Subpart—Order Regulating Handling

##### GENERAL PROVISIONS

Sec.  
1094.1 General provisions.



| DEFINITIONS |                                         |
|-------------|-----------------------------------------|
| Sec.        |                                         |
| 1094.2      | New Orleans-Mississippi marketing area. |
| 1094.3      | Route disposition.                      |
| 1094.4      | [Reserved]                              |
| 1094.5      | [Reserved]                              |
| 1094.6      | [Reserved]                              |
| 1094.7      | Pool plant.                             |
| 1094.8      | Nonpool plant.                          |
| 1094.9      | Handler.                                |
| 1094.10     | Producer-handler.                       |
| 1094.11     | [Reserved]                              |
| 1094.12     | Producer.                               |
| 1094.13     | Producer milk.                          |
| 1094.14     | Other source milk.                      |
| 1094.15     | Fluid milk product.                     |
| 1094.16     | Fluid cream product.                    |
| 1094.17     | Filled milk.                            |
| 1094.18     | Cooperative association.                |

| HANDLER REPORTS |                                      |
|-----------------|--------------------------------------|
| 1094.30         | Reports of receipts and utilization. |
| 1094.31         | Payroll reports.                     |
| 1094.32         | Other reports.                       |

| CLASSIFICATION OF MILK |                                                                             |
|------------------------|-----------------------------------------------------------------------------|
| 1094.40                | Classes of utilization.                                                     |
| 1094.41                | Shrinkage.                                                                  |
| 1094.42                | Classification of transfers and diversions.                                 |
| 1094.43                | General classification rules.                                               |
| 1094.44                | Classification of producer milk.                                            |
| 1094.45                | Market administrator's reports and announcements concerning classification. |

| CLASS PRICES |                                          |
|--------------|------------------------------------------|
| 1094.50      | Class prices.                            |
| 1094.51      | Basic formula price.                     |
| 1094.52      | Plant location adjustments for handlers. |
| 1094.53      | Announcement of class prices.            |
| 1094.54      | Equivalent price.                        |

| UNIFORM PRICE |                                                           |
|---------------|-----------------------------------------------------------|
| 1094.60       | Handler's value of milk for computing uniform price.      |
| 1094.61       | Computation of uniform price.                             |
| 1094.62       | Announcement of uniform price and butterfat differential. |

| PAYMENTS FOR MILK |                                                                         |
|-------------------|-------------------------------------------------------------------------|
| 1094.70           | Producer-settlement fund.                                               |
| 1094.71           | Payments to the producer-settlement fund.                               |
| 1094.72           | Payments from the producer-settlement fund.                             |
| 1094.73           | Payments to producers and to cooperative associations.                  |
| 1094.74           | Butterfat differential.                                                 |
| 1094.75           | Plant location adjustments for producers and on nonpool milk.           |
| 1094.76           | Payments by handler operating a partially regulated distributing plant. |
| 1094.77           | Adjustment of accounts.                                                 |

| ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION |                                      |
|-----------------------------------------------------------|--------------------------------------|
| 1094.85                                                   | Assessment for order administration. |
| 1094.86                                                   | Deduction for marketing services.    |

Authority: The provisions of this Part 1094 issued under secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674.)

#### § 1094.1 General provisions.

The terms, definitions, and provisions, in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

| DEFINITIONS |                                         |
|-------------|-----------------------------------------|
| § 1094.2    | New Orleans-Mississippi marketing area. |

The "New Orleans-Mississippi marketing area" hereinafter called the "marketing area" means all territory within the boundaries of the following Louisiana parishes and Mississippi counties, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed counties and parishes:

| ZONE 1             |              |
|--------------------|--------------|
| Louisiana Parishes |              |
| Jefferson.         | St. Bernard. |
| Lafourche.         | St. Charles. |
| Orleans.           | Terrebonne.  |
| Plaquemines.       |              |

| ZONE 2               |              |
|----------------------|--------------|
| Louisiana Parishes   |              |
| St. Tammany.         | Washington.  |
| Tangipahoa.          |              |
| Mississippi Counties |              |
| George.              | Jackson.     |
| Hancock.             | Pearl River. |
| Harrison.            | Stone.       |

| ZONE 3               |            |
|----------------------|------------|
| Mississippi Counties |            |
| Adams.               | Leake.     |
| Amite.               | Lincoln.   |
| Calhoun.             | Madison.   |
| Clarke.              | Marion.    |
| Copiah.              | Neshoba.   |
| Covington.           | Newton.    |
| Forrest.             | Perry.     |
| Franklin.            | Pike.      |
| Greene.              | Rankin.    |
| Hinds.               | Scott.     |
| Issaquena.           | Sharkey.   |
| Jasper.              | Simpson.   |
| Jefferson.           | Smith.     |
| Jefferson Davis.     | Walthall.  |
| Jones.               | Warren.    |
| Kemper.              | Wayne.     |
| Lamar.               | Wilkinson. |
| Lauderdale.          | Yazoo.     |
| Lawrence.            |            |

| ZONE 4               |             |
|----------------------|-------------|
| Mississippi Counties |             |
| Attala.              | Montgomery. |
| Bolivar.             | Noxubee.    |
| Carroll.             | Oktibbeha.  |
| Choctaw.             | Sunflower.  |
| Holmes.              | Washington. |
| Humphreys.           | Webster.    |
| Leflore.             | Winston.    |
| Lowndes.             |             |

| ZONE 5               |               |
|----------------------|---------------|
| Mississippi Counties |               |
| Calhoun.             | Quitman.      |
| Coahoma.             | Tallahatchie. |
| Grenada.             | Yalobusha.    |

#### § 1094.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a milk processing plant to wholesale or retail outlets (including any delivery by a vendor and from a

plant store or through a vending machine) other than a delivery to any milk or filled milk receiving and/or processing plant.

#### § 1094.4 [Reserved]

#### § 1094.5 [Reserved]

#### § 1094.6 [Reserved]

#### § 1094.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any plant at which fluid milk products, eligible for distribution in the marketing area under a Grade A label, are processed and packaged and from which during the month:

(1) Route disposition, except filled milk, in the marketing area is at least the lesser of a daily average of 1,500 pounds or 10 percent of receipts from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk), handlers described in § 1094.9(c), and other plants; and

(2) Total route disposition, except filled milk, is 50 percent or more of receipts from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk), handlers described in § 1094.9(c), and other plants.

(b) Any plant, other than a plant described in paragraph (a) of this section, at which milk eligible for distribution in the marketing area under a Grade A label is received and from which during the month not less than 45 percent of the Grade A milk received at the plant from dairy farmers (including producer milk diverted from the plant but excluding milk received as diverted milk), and handlers described in § 1094.9(c) is shipped to and received at plants qualifying for the month pursuant to paragraph (a) of this section.

Any plant meeting such shipping standard for each of the months of August through November shall continue to be a pool plant the following months of December through July unless the operator notifies the market administrator in writing before the first day of any such month of his intent to withdraw such plant as a plant qualified under this paragraph, in which case such plant thereafter shall be a nonpool plant except in any month it meets the above 45 percent shipping standard.

(c) Any plant located in the marketing area that is operated by a cooperative association if pool plant status under this paragraph is requested for such plant by the cooperative association and 50 percent or more of the producer milk of members of the cooperative association is physically received during the month in the form of a bulk fluid milk product at pool plants described in paragraph (a) of this section either directly from farms or by transfer from plants of the cooperative association for which pool status under this paragraph has been requested, subject to the following conditions:



(1) The plant does not qualify as a pool plant under paragraph (a) or (b) of this section or under the provisions of another Federal order applicable to a distributing plant or a supply plant; and

(2) The plant is approved by a duly constituted regulatory agency for the disposition of Grade A milk in the marketing area.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area;

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part or such plant has automatic pooling status under such other order. This paragraph shall not apply during the months of December through July to a plant that retains automatic pooling status under this part.

#### § 1094.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant, a governmental agency plant, nor a producer-handler plant, from which there is route disposition in consumer-type packages or

dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant, a governmental agency plant, nor a producer-handler plant.

(e) "Governmental agency plant" means a plant operated by a governmental agency from which fluid milk products are distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

#### § 1094.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) A cooperative association with respect to milk of producers diverted for the account of such association in accordance with § 1094.13;

(c) Any cooperative association with respect to the milk of producers which it causes to be delivered directly from the farm to the pool plant of another person in a tank truck owned and operated by, under contract to, or under the control of such association (unless the association and the person operating the pool plant both notify the market administrator, in writing, prior to the time of delivery that the pool plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples). For purposes of pricing, such milk shall be deemed to have been received by the association from producers at the location of the pool plant at which such milk is physically received;

(d) Any person who operates a partially regulated distributing plant;

(e) Any person who is a producer-handler; and

(f) Any person who operates another order plant described in § 1094.7(d).

#### § 1094.10 Producer-handler.

"Producer-handler" means any person:

(a) Who operates a dairy farm and a processing plant from which there is route disposition in the marketing area;

(b) Who receives no fluid milk products from sources other than his own farm production, pool plants and other order plants;

(c) Whose receipts of fluid milk products during the month from pool plants and other order plants do not exceed a daily average of 1,500 pounds;

(d) Who disposes of no other source milk as Class I milk except by increasing the nonfat milk solids content of the fluid milk products received from his own farm production, pool plants, or other order plants; and

(e) Who provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

#### § 1094.11 [Reserved]

#### § 1094.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which is received at a pool plant or by a handler described in § 1094.9(c) or is diverted pursuant to § 1094.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) A governmental agency that operates a plant exempt pursuant to § 1094.8(e);

(3) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1094.44(a)(8)(iii) and the corresponding step of § 1094.44(b); and

(4) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

#### § 1094.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in Grade A milk of a producer which is:

(a) Received at a pool plant directly from a producer;

(b) Received by a handler described in § 1094.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1094.9(c), is the handler for such milk;

(d) Diverted from a pool plant to the pool plant of another handler. Milk so diverted shall be deemed to have been received at the location of the plant to which diverted; and

(e) Diverted by the operator of a pool plant or a cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) During December through July such diversions may be made without limit;

(2) During August through November such diversions shall be limited to the amounts specified in paragraph (e)(2)(i), (ii), and (iii) of this section:

(i) A cooperative association may divert the milk of any eligible member-dairy farmer without limit during the month if the total volume of milk so



diverted does not exceed 35 percent of the cooperative's total member producer milk during that month;

(ii) The operator of a pool plant may divert from such plant the milk of any eligible nonmember dairy farmer without limit during the month if the total volume of milk so diverted does not exceed 35 percent of his nonmember producer milk during that month; and

(iii) If the 35 percent limitation described in paragraph (e) (2) (i) and (ii) of this section is exceeded, the diversion of any eligible dairy farmer's milk shall be limited to 15 days' production during any such month. If this 15-day limitation is exceeded for any such dairy farmer, he shall be eligible for pooling only with respect to that milk physically received at pool plants during the month;

(3) Diverted milk shall be deemed to have been received at the location of the plant to which diverted; and

(4) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk.

#### § 1094.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1094.40 (b) (1) from any source other than producers, handlers described in § 1094.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1094.40 (b) (1);

(c) Products (other than fluid milk products, products specified in § 1094.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1094.40 (b) (1)) for which the handler fails to establish a disposition.

#### § 1094.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by

weight less than 6.5-percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

#### § 1094.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

#### § 1094.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

#### § 1094.18 Cooperative association.

Cooperative association means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk of its members.

#### HANDLER REPORTS

#### § 1094.30 Reports of receipts and utilization.

On or before the 5th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1094.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1094.40 (b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section.

tion. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1094.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

#### § 1094.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1094.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1094.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

#### § 1094.32 Other reports.

(a) Each handler who operates an other order plant with route disposition in the marketing area shall report such disposition to the market administrator on or before the seventh day after the end of each month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1094.30 and 1094.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

#### CLASSIFICATION OF MILK

#### § 1094.40 Classes of utilization.

Except as provided in § 1094.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1094.30 shall be classified as follows:

(a) *Class I milk*. Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.



(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product

that was included within the fluid milk product definition pursuant to § 1094.15; and

(6) In shrinkage assigned pursuant to § 1094.41(a) to the receipts specified in § 1094.41(a) (2) and in shrinkage specified in § 1094.41 (b) and (c).

#### § 1094.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1094.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1094.9(c), and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for

which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1094.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

#### § 1094.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divortee-plant after the computations pursuant to § 1094.44 (a) (12) and the corresponding step of § 1094.44 (b);

(2) If the transferor-plant or divortor-plant received during the month other source milk to be allocated pursuant to § 1094.44 (a) (7) of the corresponding step of § 1094.44 (b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divortor-handler received during the month other source milk to be allocated pursuant to § 1094.44 (a) (11) or (12) or the corresponding steps of § 1094.44 (b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divortee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the



pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1094.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool

plant that is not an other order plant, a governmental agency plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d) (2) (i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d) (2) (ii) through (viii) of this section:

(a) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1094.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully related thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall

be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

(e) *Transfers by a handler described in § 1094.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1094.9(c) to another handler's pool plant shall be classified pursuant to § 1094.44 pro rata with producer milk received at the transferee-handler's plant.

#### § 1094.43 General classification rules.

In determining the classification of producer milk pursuant to § 1094.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1094.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1094.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk or butterfat, respectively, in each class in accordance with §§ 1094.40, 1094.41, and 1094.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1094.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds



of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1094.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

#### § 1094.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1094.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1094.9(c), by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1094.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1094.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1094.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream prod-

uct) that is used to produce, or added to, any product specified in § 1094.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1094.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this subsection;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from another order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (i) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be ad-

justed in the reverse direction by a like amount;

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1094.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1094.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from Class II and Class III



combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined, being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1094.45 (a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall

be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III, combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1094.42 (a); and

(14) If the total of skim milk remaining in all classes exceeds the pounds of skim milk in producer milk and milk received from a handler described in § 1904.9 (c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1094.9 (c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

#### § 1094.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1094.44 (a) (12) and the corresponding step of § 1094.44 (b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1094.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 11th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

#### CLASS PRICES

##### § 1094.50 Class prices.

Subject to the provisions of § 1094.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.85.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

##### § 1094.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-



tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

#### § 1094.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1094.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price specified in § 1094.50(a) shall be adjusted by the amount stated in paragraph (a) (1) through (5) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1094.2 the adjustment shall be as follows:

|        | Adjustment per hundredweight |
|--------|------------------------------|
| Zone 1 | No adjustment.               |
| Zone 2 | Minus 18 cents.              |
| Zone 3 | Minus 40 cents.              |
| Zone 4 | Minus 55 cents.              |
| Zone 5 | Minus 65 cents.              |

(2) For a plant located in any of the following Louisiana parishes, the adjustment shall be as follows:

(i) No adjustment.

|             |                       |
|-------------|-----------------------|
| Acadia.     | Jefferson Davis.      |
| Ascension.  | Lafayette.            |
| Assumption. | St. James.            |
| Calcasieu.  | St. John the Baptist. |
| Cameron.    | St. Martin.           |
| Iberia.     | St. Mary.             |
| Iberville.  | Vermilion.            |

(ii) Minus 19 cents.

|                   |                   |
|-------------------|-------------------|
| Allen.            | Pointe Coupee.    |
| Avoyelles.        | Rapides.          |
| Beauregard.       | St. Helena.       |
| East Baton Rouge. | St. Landry.       |
| East Feliciana.   | Vernon.           |
| Evangeline.       | West Baton Rouge. |
| Livingston.       | West Feliciana.   |

(iii) Minus 38 cents.

|               |               |
|---------------|---------------|
| Blenville.    | Lincoln.      |
| Bossier.      | Madison.      |
| Caddo.        | Morehouse.    |
| Caldwell.     | Natchitoches. |
| Catahoula.    | Ouachita.     |
| Clatborne.    | Red River.    |
| Concordia.    | Richland.     |
| De Soto.      | Sabine.       |
| East Carroll. | Tensas.       |
| Franklin.     | Union.        |
| Grant.        | Webster.      |
| Jackson.      | West Carroll. |
| La Salle.     | Winn.         |

(3) For a plant located in the State of Mississippi outside the marketing area the adjustment shall be minus 65 cents;

(4) For a plant located in the State of Alabama the adjustment shall be the adjustment applicable at Columbus, Meridian, Pascagoula or Tupelo, Mississippi, whichever city is nearest; and

(5) For a plant located outside the areas described in paragraphs (a) (1) through (4) of this section and more than 150 miles by shortest highway dis-

tance, as determined by the market administrator, from the City Hall in New Orleans, Louisiana, the adjustment shall be minus 45 cents per hundredweight. Such minus adjustment to be increased 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is located in excess of 160 miles from the New Orleans City Hall.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee-plant after the computations pursuant to § 1094.44(a) (12) an amount equal to:

(i) The pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1094.9(c); and

(ii) The pounds of skim milk in receipts of packaged fluid milk products from other pool plants;

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b) (2) of this section to each transferor-plant at which the Class I price is lower than the Class I price at the transferee-plant by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b) (3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1094.42(a) and at which the applicable Class I price is less than the Class I price at the transferee-plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b) (3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b) (3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler according to the shortest highway distance between such plant and the City Hall in New Orleans, Louisiana. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

#### § 1094.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

#### § 1094.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

#### UNIFORM PRICE

#### § 1094.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1094.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1094.9(c) that were classified in each class pursuant to §§ 1094.43 (a) and 1094.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1094.44(a) (14) and the corresponding step of § 1094.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1094.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1094.44



(a) (9) and the corresponding step of § 1094.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1094.44(a) (7) (i) through (iv) and the corresponding step of § 1094.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1094.44(a) (7) (v) and (vi) and the corresponding step of § 1094.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1094.44 (a) (11) and the corresponding step of § 1094.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Subtract for a handler described in § 1094.9(c) the amount obtained from multiplying the Class III price for the preceding month, as adjusted by the butterfat differential specified in § 1094.74, by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to another handler's pool plant during the month.

#### § 1094.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 1094.60 except those of handlers who failed to make payments required pursuant to § 1094.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1094.75;

(c) Add not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the amount computed pursuant to paragraphs (a) through (c) of this section by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included pursuant to paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1094.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers.

#### § 1094.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

#### PAYMENTS FOR MILK

##### § 1094.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1094.71, 1094.76, and 1094.77, and out of which he shall make all payments pursuant to §§ 1094.72 and 1094.77; *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

##### § 1094.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a) (1) of this section exceeds the amount specified in paragraph (a) (2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1094.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1094.75, of such handler's receipts of producer milk and milk received from a handler described in § 1094.9(c), less in the case of a handler described in § 1094.9(c) the amount due from other handlers pursuant to § 1094.73(e), exclusive of the butterfat differential specified in § 1094.74; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1094.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-

wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b) (1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

##### § 1094.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1094.71(a) (2) exceeds the amount computed pursuant to § 1094.71(a) (1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

##### § 1094.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer, who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than 90 percent of the uniform price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price, as adjusted pursuant to §§ 1094.74 and 1094.75, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a) (1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1094.86;

(iii) Plus or minus adjustments for errors made in previous payments to such producer;

(iv) Less deductions authorized in writing by such producer; and

(v) If by such date such handler has not received full payment from the market administrator pursuant to § 1094.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be com-



pleted thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) Each handler shall furnish to the producer the following information:

(1) On or before the 25th day of the month, the pounds of milk received from the producer during the first 15 days of such month;

(2) On or before the 15th day of the following month (i) the pounds of milk received from the producer each day and the total for the month, together with the butterfat content of such milk, (ii) the amount (or rate) and nature of deductions made from payments, and (iii) the amount and nature of payments due pursuant to § 1094.77.

(c) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any claim on the part of the association, each handler:

(1) Shall pay to the cooperative association, in lieu of payments pursuant to paragraph (a) of this section, on or before the 2d day prior to the date on which payments are due individual producers, an amount equal to not less than the amount due such certified members as determined pursuant to paragraph (a) of this section;

(2) Report to the cooperative association on or before the 25th day of the month, the pounds of milk received from each member of the cooperative association during the first 15 days of such month and on or before the 7th day of the following month to the cooperative association for its individual members the following information: (1) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) the amount (or rate) and nature of deductions made from payments and (iii) the amount and nature of payments due pursuant to § 1094.77. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(3) A copy of each such request, promise to reimburse, and a certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 1094.9(a) as follows:

(1) On or before the 22d day of each month an amount equal to not less than 90 percent of the uniform price for the preceding month multiplied by the hundredweight of milk received from the cooperative association during the first 15 days of the current month; and

(2) On or before the 12th day after the end of each month in which it was received at not less than the class prices, as adjusted by the butterfat differential specified in § 1094.74, that are applicable at the location of the receiving handler's pool plant, plus the amount due the market administrator from the cooperative association on such milk pursuant to § 1094.85, less amounts paid pursuant to paragraph (d) (1) of this section.

(e) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 1094.9(c) as follows:

(1) On or before the 22nd day of each month an amount equal to not less than 90 percent of the uniform price for the preceding month multiplied by the hundredweight of milk received from the cooperative association during the first 15 days of the current month; and

(2) On or before the 12th day after the end of each month in which it was received at not less than the uniform price, as adjusted pursuant to §§ 1094.74 and 1094.75, multiplied by the hundredweight of milk so received from the cooperative association during the month, less amounts paid pursuant to paragraph (e) (1) of this section.

#### § 1094.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

#### § 1094.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a plant shall be reduced according to the location of the plant, each at the rates set forth in § 1094.52 (a); and

(b) The uniform price applicable to other source milk shall be adjusted at the rates set forth in § 1094.52(a) applicable at the location of the nonpool plant from which the milk was received; except that the uniform price shall not be less than the Class III price.

#### § 1094.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on

or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1094.30(b) and 1094.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1094.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the



extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1094.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1094.60 for such handler shall include, in lieu of the value of other source milk specified in § 1094.60(f) less the value of such other source milk specified in § 1094.71(a) (2) (ii), a value of milk determined pursuant to § 1094.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1094.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1094.30(b) and 1094.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1094.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b) (1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1094.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1094.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

#### § 1094.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

#### ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

#### § 1094.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may, from time to time, prescribe, to be announced by the market administrator on or before the 11th day after the end of such month, with respect to all skim milk and butterfat received by such handler in:

(a) Producer milk (including such handler's own production) other than such receipts by a handler described in § 1094.9(c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1094.9(c);

(c) Other source milk allocated to Class I pursuant to § 1094.44(a) (7) and (11) and the corresponding steps of § 1094.44(b), except such other source milk that is excluded from the computations pursuant to § 1094.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1904.76(a) (2).

#### § 1094.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1094.73, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing

and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

Signed at Washington, D.C., on: October 22, 1975.

DONALD E. WILKINSON,  
Administrator.

[FR Doc. 75-26827 Filed 10-24-1975; 8:45 am]

#### [ 7 CFR Part 1096 ]

[Docket No. AO-257-A26]

#### MILK IN THE NORTHERN LOUISIANA MARKETING AREA

#### Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Northern Louisiana marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by November 12, 1975. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

#### PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Alexandria, Louisiana, during the period April 8-10, 1975, pursuant to notice



thereof which was issued March 10, 1975 (40 F.R. 11879).

The material issues on the record of the hearing relate to:

1. Expansion of the marketing area.
2. The level of class prices.
3. Revision of location adjustments.
4. Miscellaneous and conforming changes.

A reopening of the April 1975 hearing was held in Washington, D.C., on June 26, 1975, pursuant to notice thereof issued June 16, 1975 (40 F.R. 25828). This session of the hearing was limited to considering the appropriate classification of flavored milk, flavored milk drinks, and milkshake and ice milk mix (or base) and was held simultaneously with a hearing involving the identical matter under 36 other Federal orders. An emergency decision was issued on July 11, 1975 (40 F.R. 30119) containing findings and conclusions and an order made effective as of August 1, 1975, on the limited issue considered at the June 26, 1975 hearing. Accordingly, the proposed order language contained in this decision incorporates the appropriate provisions of the amendatory action taken regarding classification which became effective August 1, 1975.

#### FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Expansion of the marketing area.* The Northern Louisiana marketing area should be expanded to include 44 additional parishes in Louisiana, and the order should be redesignated as the "Greater Louisiana" marketing area. The additional parishes that would be added are:

|                  |                      |
|------------------|----------------------|
| Acadia           | Lafayette            |
| Allen            | La Salle             |
| Ascension        | Livingston           |
| Assumption       | Madison              |
| Avoyelles        | Natchitoches         |
| Beauregard       | Pointe Coupee        |
| Bienville        | Rapides              |
| Calcasieu        | Richland             |
| Caldwell         | Sabine               |
| Cameron          | St. Helena           |
| Catahoula        | St. James            |
| Concordia        | St. John the Baptist |
| East Baton Rouge | St. Landry           |
| East Carroll     | St. Martin           |
| East Feliciana   | St. Mary             |
| Evangeline       | Tensas               |
| Franklin         | Vermilion            |
| Grant            | Vernon               |
| Iberia           | West Baton Rouge     |
| Iberville        | West Carroll         |
| Jackson          | West Feliciana       |
| Jefferson Davis  | Winn                 |

The expanded marketing area would include all the parishes of the State of Louisiana except the seven parishes now included in the New Orleans marketing area (Order 94) and St. Tammany, Tangipahoa and Washington Parishes in the southeast part of the State.

The present Northern Louisiana marketing area encompasses only the parishes of Bossier, Caddo, Claiborne, De Soto, Lincoln, Morehouse, Ouachita, Red River, Union, and Webster. The 1973

population of the present marketing area was 602,500, about 5.4 percent over 1970.

The parishes that would be added are located immediately south of the present marketing area and had a total population in 1973 of 1,747,200. The population of the combined area would be about 2,349,700.

Expansion of the marketing area was proposed by Northern Louisiana Pure Milk Producers Association, Baton Rouge Area Milk Producers Association, and Central and Southwest Dairy Farmers. In addition, Dairymen, Inc., while not an original proponent of the expanded marketing area, testified in support of the proposal at the hearing. There was no opposition testimony concerning the proposal.

Proponents testified that Federal regulation of milk marketing in the Greater Louisiana area is needed because:

(1) The area represents a single market in which the 11 fluid milk plants located there and five plants regulated by Order 96 (Northern Louisiana) compete extensively for fluid milk sales.

(2) The cooperative associations supplying milk to nonfederally regulated handlers in the area of extension bear the burden of handling the reserve supply of milk for the market without sharing in the returns from the sale of milk for fluid use.

(3) The possible demise of milk regulation for the area by the State of Louisiana could intensify disorderly marketing conditions. Proponents wish to avail themselves of Federal regulation for the area as an alternative authorized by law. In this way they believe there can be continuing assurance of orderly marketing conditions for the expanded marketing area.

The marketing of milk and dairy products in the proposed area involves considerable interstate commerce. Out-of-State milk producers supply milk to some handlers in the proposed area. In December 1974, 35 milk producers were located in Mississippi shipping to various Order 96 handlers. Also, five producers in Panola County, Texas ship milk to handlers regulated by Order 96. Six producers in Mississippi regularly ship milk to handlers in Baton Rouge, Louisiana.

Out-of-State supply plants ship milk to various dealers located in the proposed area. Two million pounds of bulk fluid milk was shipped to such dealers by Dairymen, Inc., during the last four months of 1974 from locations in Georgia, Tennessee, Wisconsin, Oklahoma, Kentucky, and Mississippi.

Bulk milk is disposed of outside the proposed area to processing plants in Texas, Arkansas, Mississippi, and Alabama. Class II products are distributed in the proposed area from sources in Missouri, Kentucky, and Texas, and a very large proportion of the Class III products sold in the area originates in other states. Only one plant in Louisiana processes Class III products, and the plant is located outside the proposed area.

Out-of-State plants compete with dealers in the proposed area for contracts to supply fluid milk products to Federal military installations in the area. At the time of the hearing, however, no plants located outside the area were successful bidders for such contracts.

The sanitary regulations applicable to the production, processing and distribution of Grade A fluid milk are uniform within the expanded marketing area. Such regulations are under the jurisdiction of the State of Louisiana and require that all fluid milk must be packaged under a Grade A label. Consequently, Grade A fluid milk can move freely from one parish to another. However, the State of Louisiana does not enter into reciprocal arrangements regarding sanitary requirements with surrounding states. Nevertheless, the record evidence showed that currently about 300 out-of-state producers are qualified to ship milk to Louisiana Grade A fluid milk plants.

Eleven Louisiana milk dealers located in the proposed expanded area, five handlers regulated by Order 96, and six handlers regulated by the New Orleans Federal order distribute milk in the expanded area.<sup>1</sup> Two of the Louisiana milk dealers are located at Lake Charles, two at Baton Rouge, and one each at Crowley, New Iberia, Lafayette, Alexandria, Opelousas, Breaux Bridge, and Abbeville.

Estimated current monthly distribution of fluid milk products in the proposed area of expansion is 52 million pounds. The preponderance of this distribution is by the 11 dealers who would become regulated, and by the Order 96 handlers distributing in the area.

The principal centers of population in the proposed expanded area are the metropolitan areas of Alexandria, Baton Rouge, Lafayette, and Lake Charles which had a combined population of 807,600 in 1973.

These areas have been identified as Standard Metropolitan Statistical Areas by the Census Bureau. An SMSA is a county or group of contiguous counties which contains at least one city of 50,000 inhabitants or more. In addition to the county, or counties, containing such a city or cities, contiguous counties are included in an SMSA if, they are socially and economically integrated with the central city.

The above four SMS Areas include 46.2 percent of the 1973 population of the 44 parish area. Between 1970-73 the metropolitan areas indicated population increases ranging between 2.8 percent and 7.4 percent.

In contrast to population increases in the four metropolitan areas, a number of the rural parishes lost population between 1970 and 1973. Fourteen of the 44 parishes involved lost population ranging between -0.5 percent (Avoyelles Parish) and -11.5 percent (St. Helena). The population of one urban parish (Vernon)

<sup>1</sup> A Federally unregulated handler located at Bogalusa has limited route distribution in one parish of the proposed expanded area.



decreased 17.8 percent between 1970-73. During the same period 12 rural parishes increased population, ranging between 0.1 percent (East Feliciana) and 18.6 percent (Cameron Parish).

Generally, north central Louisiana represents an area of increasing population. In a contiguous area roughly between Alexandria and Monroe, the parishes of Lincoln, Jackson, Winn, Natchitoches, La Salle, Caldwell, Richland, and Union increased population between 1.1 percent and 8.8 percent from 1970 to 1973.

During the same period, a contiguous area of 10 parishes in eastern Louisiana between Morehouse Parish (on the Arkansas line) and Iberville Parish in south central Louisiana decreased in population between -0.5 percent (Catahoula Parish) and -11 percent (West Feliciana Parish). The other parishes included in this group are: West Carroll, East Carroll, Madison, Franklin, Tensas, Concordia, Avoyelles, and Pointe Coupee.

Similarly, in western Louisiana, a belt of six parishes ranging from Claiborne on the Arkansas line south to Vernon decreased in population ranging between -1.9 percent (Sabine Parish) and -17.8 percent (Vernon Parish). An exception in this area was the Shreveport SMSA which increased population by 3.5 percent.

In southern Louisiana, a 9-parish area near the Lake Charles and the Lafayette SMS Areas increased in population between 1.4 percent (Vermilion Parish) and 18.6 percent (Cameron Parish). This group also includes Beauregard, Evangeline, St. Landry, St. Martin, Iberia, Acadia, and Jefferson Davis Parishes.

Of the four parishes abutting the New Orleans marketing area two are principally urban and increased population 1.6 percent (St. Mary) and 4.8 percent (St. John the Baptist) respectively. Of the remaining two rural parishes one (Assumption) increased population 1.9 percent, and the other (St. James) decreased 4.9 percent.

The foregoing population composition of the expanded area delineates the changing consuming market for which handlers within the adopted marketing area compete with each other for fluid milk sales.

There are seven pool distributing plants regulated by the present Northern Louisiana order. For 1974, an average of 240 producers supplied 241.9 million pounds of producer milk to the market, of which 79.6 percent was used in Class I. About 30 percent of the packaged fluid milk disposition of the order was distributed outside the marketing area by five Order 96 pool distributing plants in competition with nonfederally regulated dealers in 13 of the 44 parishes proposed for the expanded area. In nine of these 13 parishes population increased between 1970-73.

Foremost at Shreveport distributes outside the Order 96 marketing area into Allen, Avoyelles, Beauregard, Bienville,

Calcasieu, Concordia, Jackson, Jefferson Davis, La Salle, Natchitoches, Rapides, Vernon, and Winn Parishes. Calcasieu Parish is in the extreme southern part of Louisiana.

Midwest at Shreveport distributes into Avoyelles, Bienville, Calcasieu, Natchitoches, Rapides, and Vernon Parishes. Borden at Monroe distributes into Bienville, Concordia, Jackson, La Salle, Natchitoches, and Winn Parishes.

Flav-O-Rich at Monroe distributes into Concordia, Jackson, La Salle, and Winn Parishes, while Sanitary at Minden distributes into Natchitoches Parish.

There are 11 fluid milk plants located in and distributing throughout the 44-parish area. The Borden plant at Baton Rouge distributes into 11 of these parishes, while the Borden plants at Lafayette and Lake Charles distribute into nine and eight of the parishes, respectively. A second plant at Lake Charles distributes into three of the 44 parishes.

Clover Farms at Opelousas distributes into six of the 44 parishes. Hebert at Breau Bridge distributes into three, while Pelican at New Iberia distributes into five of the parishes.

A second plant at Baton Rouge distributes into 12 of the 44 parishes, and the Vermilion Dairy at Abbeville distributes into eleven.

The Walker-Roemer plant at Alexandria distributes into 13 of the 44 parishes, and the Ziegler-Trahan plant at Crowley distributes into three of the parishes.

The plants at Baton Rouge, Lafayette, Lake Charles, New Iberia, and Alexandria each distribute over one million pounds of fluid milk products per month, while the plants at Crowley, Abbeville, Breau Bridge, and Opelousas each distribute less than one million pounds of fluid milk products each month.

There is considerable competition for fluid milk sales in the expanded area between the five Order 96 pool plants and the nonfederally regulated plants. Order 96 pool plants at Shreveport and Monroe compete for fluid milk sales with the Walker-Roemer plant at Alexandria in Grant, Natchitoches, Rapides, Vernon, Beauregard, Allen, Calcasieu, Jefferson Davis, and Cameron Parishes. The Shreveport plants also compete with the Lake Charles plants in Calcasieu, Beauregard, Vernon, Rapides, Allen, and Jefferson Davis Parishes.

Order 96 plants also have extensive packaged fluid milk distribution throughout the parishes of Sabine, Bienville, Jackson, Winn, Caldwell, La Salle, Catahoula, Concordia, Richland, Franklin, Tensas, Madison, West Carroll, and East Carroll.

In a rectangular area consisting of Alexandria, Lake Charles, Abbeville, and Baton Rouge, there is extensive competition for fluid milk sales among 11 dealers located at those points and at Crowley, New Iberia, Lafayette, Breau Bridge, and Opelousas within the area. The competition covers the 16 parish area comprising Rapides, Allen, Beauregard, Calcasieu, Jefferson Davis, Cameron, Ver-

million, Acadia, Iberia, Lafayette, St. Martin, St. Landry, Evangeline, Avoyelles, Pointe Coupee, and Iberville.

The dealers at Abbeville and New Iberia also compete to the south for sales in St. Mary Parish.

The Baton Rouge dealers also distribute in West Baton Rouge, East Baton Rouge, Tangipahoa and in West Feliciana, East Feliciana, St. Helena, Livingston, Ascension, St. John the Baptist, St. James and Assumption Parishes.

The foregoing competitive structure indicates that the five handlers now regulated by Order 96 compete extensively with nonfederally regulated dealers in the 44 parish area, and that the 11 fluid milk dealers located in such area compete extensively with each other throughout a major portion of the 44 parish area.

Three handlers regulated by the New Orleans order distribute fluid milk products throughout 13 parishes principally in the lower half of Louisiana. A fourth New Orleans handler distributes in Assumption, St. James and St. John parishes. The remaining New Orleans handlers distribute in several eastern parishes.

The New Orleans handlers distribute primarily to stores and account for a relatively minor portion of the fluid milk sales in the 44-parish area. The milk dealers located there, and the Order 96 pool handlers account for the great majority of the total fluid milk sales of the 44-parish area.

It is concluded that the 44-parish area, in conjunction with the 10 parishes of the Northern Louisiana marketing area, comprise a single market in which the milk dealers located there compete with each other for the available fluid milk sales. Accordingly, it is reasonable and appropriate that the 54 parishes be included in a single marketing area to be designated as the "Greater Louisiana" marketing area.

A second basis advanced by proponents for providing Federal regulation in the expanded marketing area is to distribute more equitably among producers the burden of reserve supplies of milk necessarily associated with the fluid milk sales of the area.

A major marketing problem in the expanded area is the inequality of treatment among the dairy farmers supplying the area to the end that some profit financially to the detriment of others. Under these conditions, there is much discord among dairy farmers which poses a continuing threat to orderly marketing in the area.

This problem emanates from the present use of the individual-handler pooling of dairy farmer returns throughout the 44 parishes which encourages milk dealers to limit supplies of producer milk. Under this pooling procedure, the Class I sales of each milk dealer are shared only among those dairy farmers delivering milk to such milk dealer. Hence, the blend price payable by each dealer to his dairy farmers is affected only by his own utilization.



Milk dealers in the expanded area tend to receive only enough milk at their distributing plants to meet the immediate needs of fluid milk and cottage cheese requirements. The milk dealers rely on the proponent cooperatives in varying degrees to meet their day-to-day and season-to-season fluctuations in milk supply needs. They arrange for the cooperative associations, particularly Dairymen, Inc., to supply them with milk at the time and in the quantities needed.

Some milk dealers buy their full supply this way while others receive some milk directly from producers and supplemental supplies from the cooperatives. In both instances, the cooperatives assume the burden of disposing of that milk dealers do not have an immediate need for but which represents a necessary reserve supply for the market.

One milk dealer may not need milk on a particular day, while another milk dealer may need an additional quantity. In these circumstances, the cooperatives may take the milk that regularly goes to the first milk dealer and deliver it to the second milk dealer. This is an efficient way of handling the milk and tends to maximize the fluid milk utilization of the market, as evidenced by the relatively high utilization percentages which were entered into evidence.

If no one wants the milk that is excess to a milk dealer's immediate needs, the cooperatives bear the burden of its disposition. Ordinarily, Dairymen, Inc., disposes of such milk at its manufacturing plant at Franklinton, Louisiana, while the Northern Louisiana Pure Milk Producers, which does not have a manufacturing plant, must dispose of such excess to available manufacturing plants in Texas, Arkansas, Alabama, and Mississippi, as there are no facilities within the 54 parishes for processing such surplus milk.

Under the present individual-handler pooling of dairy farmer returns, the lower returns from the marketing of the reserve or surplus supply by the cooperatives have been reflected only in the returns to their members, and nonmember dairy farmers have received significantly higher returns than member dairy farmers. Consequently, substantial inequity results between the members of the cooperative associations as major suppliers of milk for fluid use to the market and other dairy farmers supplying it.

Past efforts to provide a means of sharing the burden of reserve milk among all producers under State auspices have been to no avail. Federal regulation for the area, with provision for market pooling, will provide the means of doing so and will contribute to more orderly marketing conditions for the area. Accordingly, it is reasonable and appropriate that such regulation be provided.

The third basis advanced by proponents for providing Federal regulation for the expanded marketing area is centered on the possibility that State milk regulation may be discontinued. It cannot be determined from the record whether this is an imminent possibility,

but the apprehension of producers that it may occur is evident.

There is growing sentiment in the State of Louisiana to discontinue milk marketing regulations. While the thrust of this discontent has been aimed at resale and wholesale price fixing, dairy farmers are concerned that all milk marketing programs may be discontinued. Such action would deprive them of the possibility of achieving stable and orderly marketing conditions at the producer level. Accordingly, they propose Federal milk regulation for the Greater Louisiana area as an alternative, authorized by the Agricultural Marketing Agreement Act, to the growing uncertainty underlying milk marketing stability in the 44 parishes under consideration herein.

Given the demise of State regulation, the application of Federal regulation would be the exclusive means of providing orderly marketing conditions for dairy farmers. Thus, it would provide a means of insuring a continuing adequate and dependable supply of milk for consumers. The chief measures that would be employed for such purpose are:

(1) The establishment of uniform prices to handlers for milk received from producers according to a classified price plan based upon the marketwide utilization of the milk.

(2) An impartial audit of handlers' records of receipts and utilization to insure uniform prices for milk purchased.

(3) A means for insuring accurate weights and tests.

(4) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns from the sale of reserve milk.

(5) Marketwide information on receipts and sales and other data relating to milk marketing in the area.

It should be noted at this point that Federal regulation of the expanded area would not set retail prices to consumers. It establishes price floors to producers consistent with local and general economic conditions affecting the supply of and demand for milk. In this way milk dealers are assured that their competitors pay for their milk at not less than the minimum prices set by the order. The dealers then can expect steady supplies of milk the year round, and can work toward building distribution on a sound, competitive basis.

As indicated previously, the State of Louisiana prescribes minimum prices that Louisiana milk dealers must pay for milk received from dairy farmers at Louisiana plants. The State cannot, however, regulate the price of milk received from sources outside the State. Proponents contended that the inability of the State to effectively regulate interstate movements of milk, which are becoming a more important factor in the area covered by the proposed order, could over time create additional marketing uncertainties. They maintained that only a Federal milk order can provide the marketing environment in which producers may obtain the full economic value of their milk under orderly marketing conditions.

As long as all milk supplies for the Greater Louisiana market are not subject to a fully effective classified pricing system, a situation exists whereby Louisiana dairy farmers cannot plan their future production programs with absolute certainty of marketing conditions needed for sound management decisions. This situation could ultimately threaten the maintenance of an adequate supply of milk for the Greater Louisiana market.

It is concluded that the application of Federal milk regulation to the expanded area proposed herein represents a necessary and an appropriate means of assuring orderly milk marketing conditions for the dairy farmers who supply the area with its fluid milk needs.

As indicated previously, all territory now within the defined marketing area of the Northern Louisiana order would be included together with the 44 parishes designated herein in the Greater Louisiana marketing area. As the expanded area includes Federal military installations and possibly State institutions, the marketing area should include all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions or other establishments if any part thereof is within any of the designated parishes. Also, the expanded area would include part of the southern coastline of the State of Louisiana. Accordingly, the marketing area should include all piers, docks, and wharves, including craft moored thereat, that are a part of these parishes.

A spokesman for 22 dairy farmers affiliated with Dairy Farmers' Local 470 (AFL-CIO) and residing in Washington Parish, Louisiana, who supply a fluid milk dealer at Bogalusa, Louisiana (Washington Parish) testified that Washington, St. Tammany and Tangipahoa Parishes should be included in the proposed marketing area. The three Parishes were not part of the proposed market area extension as published in the hearing notice. However, the Administrative Law Judge presiding at the hearing permitted the testimony despite objections raised by other participants. He concluded that although the proposal technically was outside the scope of the hearing notice, it was relevant to the wishes of a producer group—all within the State of Louisiana—who preferred the three Parishes to be included in the proposed marketing area.

Since these three parishes were not noted in the area extension proposal as published in the hearing notice, they could not be included as part of the proposed Greater Louisiana marketing area on the basis of this proceeding. More importantly, however, the testimony that was permitted at the hearing did not justify the inclusion of these three parishes in the expanded marketing area for reasons discussed below.

The reason given by the dairy farmers' spokesman for preferring to be associated with the proposed marketing area was that the present blend prices of the 22 producers are more in line with those dairy farmers shipping to Baton Rouge.



milk dealers who would be regulated by the proposed order. However, no specific blend price comparisons were entered into evidence by the producers' spokesman.

According to their spokesman, the 22 dairy farmers tailor their production to the fluid needs of the Bogalusa milk dealer, and he pays them individually. The prices they receive are those established by the State of Louisiana applied to the utilization of the plant at Bogalusa.

It should be noted at this point that the expanded order adopted herein continues the market-wide type of pool as a means of distributing to producers the returns from the sale of their milk. Under this pooling arrangement, the Washington Parish dairymen would be sharing in the total utilization of milk for the market, including the reserve milk associated with Class I sales. Consequently, their blend prices would tend to be lower than those resulting from the relatively high Class I utilization associated with their buying milk dealer.

There is no basis for estimating with any precision at this point what level such blend prices would be under the expanded order particularly in comparison with the blend prices of the New Orleans order which appeared to be a matter of concern for the 22 dairymen.

The parish (Washington) in which these 22 dairymen are located is a major supply area for the New Orleans Federal order market. In fact, the great majority of the milk produced in Washington Parish is pooled under the New Orleans order.

Baton Rouge milk dealers draw part of their supply from Tangipahoa Parish but not from Washington or St. Tammany Parishes. St. Tammany Parish is included in the New Orleans Standard Metropolitan Statistical Area. The great majority of the milk from Tangipahoa Parish is shipped to New Orleans regulated handlers. Tangipahoa and Washington Parishes are contiguous with Mississippi, and many producers in Mississippi ship to the New Orleans market. About five or six producers in St. Tammany Parish ship milk to a dairy at Abita Springs.

The spokesman for the 22 dairy farmers testified that the Bogalusa milk dealer competes mainly with a Baton Rouge plant, but indicated further that three New Orleans regulated handlers also distribute in Washington Parish. There are also two other processing plants located in the three parishes. There is a relatively small plant at Abita Springs (St. Tammany Parish) and a large plant at Kentwood (Tangipahoa Parish) which is regulated by the New Orleans order. Also located in Washington Parish is the unregulated manufacturing plant of Dairymen, Inc., one of the cooperative association participants at the hearing.

The operator of the Bogalusa plant testified that he has a contract with Dairy Farmers' Local 470 to supply all his milk needs. The great majority of his fluid milk sales are made in the three Parishes with some being distributed in Livingston Parish. His competition in the

three Parishes comes from five New Orleans regulated handlers, two milk dealers from Baton Rouge, and one at Abita Springs. The Bogalusa dealer sells fluid milk to supermarkets, small stores, institutions, schools, restaurants and has some home delivery. The dealer estimated that about 75 percent of the fluid milk sales made in Washington Parish comes from his plant, with the remainder coming from a Baton Rouge plant and two New Orleans regulated plants. In St. Tammany Parish, he competes with a Baton Rouge dealer, the dealer located at Abita Springs, and with three or more handlers regulated by the New Orleans order.

In Washington Parish, the Bogalusa dealer estimated that his firm accounts for 75 percent of the fluid milk sales there, the Baton Rouge dealer for 22 percent and the New Orleans handler for 3 percent.

In St. Tammany Parish, he estimated that the Baton Rouge dealer accounts for 35 percent of the fluid sales there, the New Orleans handler for about 30 percent, the Abita Springs dealer for 20 percent and the Bogalusa dealer for about 15 percent.

In Tangipahoa Parish, the Bogalusa dealer estimated that he distributes about 30 percent of the fluid milk sales while a Baton Rouge dealer and a New Orleans handler distributes 25 percent respectively. Another 20 percent is distributed by a second Baton Rouge dealer and another New Orleans handler.

When the Bogalusa dealer needs extra milk he first gives Dairy Farmers' Local 470 the option to supply it. If they cannot, he buys it elsewhere. He has had to buy supplemental milk usually in September and October, and obtains it from the Gulf Milk Division of Dairymen, Inc., at Franklinton, Louisiana (Washington Parish) or from the Gulf Dairy Association at Kentwood, Louisiana (Tangipahoa Parish). Both associations are affiliated with the New Orleans market so that the supplemental sales are available from the New Orleans supply. He disposes of any surplus milk to Dairymen, Inc., or to a cheese plant at Newton, Mississippi.

It is apparent that in terms of supply and fluid milk sales there is a very strong connection between the three Parishes here considered and the New Orleans marketing area. The overwhelming majority of the dairymen residing in the three Parish area supply milk to the New Orleans market.

Not less than five New Orleans regulated handlers serve a large part of the fluid milk needs of the three Parishes. One Baton Rouge dealer only recently began distributing milk in the three Parishes. Previously the milk came from a branch of the same firm regulated by the New Orleans order.

Except for some sales in Livingston Parish the fluid milk sales of the Bogalusa dealer are within the three Parish area and meet no competition with other Baton Rouge dealers. In this connection, it is not necessary to cover all the route disposition of the Baton Rouge dealers

to provide the necessary marketing stability contemplated for the area proposed.

Further, the Bogalusa dealer buys supplemental milk associated with the New Orleans order. To this extent, the reserve supply associated with such sales are borne by the New Orleans pool and are not a part of the Baton Rouge market.

It is concluded on the basis of the foregoing that Washington, St. Tammany, and Tangipahoa Parishes are not associated with the adopted marketing area to a degree which would require their inclusion.

Proponents of area extension urged that the expanded order continue the provisions of the present Northern Louisiana order except for certain modifications. The proposed order adopted herein carries out this recommendation. Therefore, it is concluded that, except as modified by this decision, the present provisions of the Northern Louisiana order are equally appropriate for the expanded Greater Louisiana order and they are hereby adopted.

2. *The level of class prices—Class I prices.* The Class I price under the proposed Greater Louisiana order should be the basic formula price for the second preceding month plus a Class I differential of \$2.47. Such Class I price should apply at plants located in the base pricing zone (Shreveport-Monroe area) within the proposed marketing area. This pricing zone includes the northern segment of the expanded marketing area, encompassing all of the present Northern Louisiana marketing area. The Class I price should be 19 cents and 38 cents higher in Zones II and III, respectively, of the expanded marketing area. (A discussion of the three pricing zones adopted for the expanded marketing area is included under Issue 3 "Revision of location adjustments" of this decision.)

Proponents proposed that the Greater Louisiana order continue to use the basic formula price now used under the Northern Louisiana order as an appropriate basis for Class I pricing. They also proposed that the present Class I price differential of \$2.47 under Order 96 should continue to apply to plants located in the northern area of the proposed expanded marketing area.

Proponents' proposal, as included in the notice of hearing, provides the same Class I price level as adopted herein. At the hearing, however, the principal proponent witness concerning Class I pricing modified the proposal and supported a Class I price approximating a Class I price applicable under the Chicago Regional order at Jim Falls, Wisconsin, plus two cents per hundredweight for each 10 miles from Jim Falls to the major population centers of the proposed extended marketing area. Under the modified proposal, the Class I price would be increased significantly, 30 cents for example at Lake Charles. Corresponding increases in Class I prices at other locations within the proposed marketing area would result, reflecting



the two-cents variable transportation rate.

In support of this modification, the witness strongly emphasized that because of present and continuing higher transportation costs the commonly used transportation rate of 1.5 cents per each 10 miles is no longer appropriate in establishing Class I prices at various locations within the proposed marketing area. The level of zone prices, he indicated, should take into account the higher costs in obtaining alternative milk supplies from surplus production areas such as in Wisconsin.

A handler operating a pool distributing plant at Shreveport proposed that the Shreveport Class I price be reduced 21 cents. The handler stated a lower Class I price at Shreveport would enable Shreveport handlers to compete more equitably in the Northern Louisiana area with Little Rock regulated handlers (Central Arkansas Federal order). The present Shreveport-Little Rock price relationship, he claimed, does not reflect a price difference of 1.5 cents for each 10 miles which is commonly used as a basis in aligning Class I prices under Federal orders.

The present basic formula price of the Northern Louisiana order is based on pay prices for manufacturing grade milk at plants in the important production States of Minnesota and Wisconsin. Such pay prices are used in setting Class I prices under all Federal orders. Its continued use under the Greater Louisiana order will implement interorder price alignment by insuring that Class I price changes under the Greater Louisiana order will remain coordinated with those under all other orders thereby contributing to appropriate alignment of Class I prices among the orders. In addition, because the Minnesota-Wisconsin manufacturing pay price is a competitive pay price reflecting supply-demand conditions for milk produced by dairy farmers who incur about the same production costs, the use of this price will tend to insure an appropriate price level necessary to an adequate milk supply.

Basically, the Class I price for the Greater Louisiana order should be established at a level which, in conjunction with Class II and Class III prices, as herein adopted, would result in returns to producers sufficient to insure an adequate, but not excessive, supply of pure and wholesome milk for the market, including the necessary market reserves. Under present marketing conditions in the Greater Louisiana area, the Class I pricing plan adopted herein will meet this criterion.

The adequacy of milk supplies for the present Northern Louisiana order have been dependent on the level of Class I prices applicable to pool plants located within the marketing area. The Class I differential now provided for Order 96 is \$2.47.

Data for the market as presently constituted indicate that producer receipts for 1974 were 118.6 percent of the total Class I utilization of regulated handlers.

For 1973 this figure was 108.0 percent. However, it should be noted that data placed into evidence showed that during the past three years (1972-74) about 30 percent of total route disposition of Order 96 handlers was distributed outside the marketing area.

This supply-demand relationship indicates that the present Class I price structure under the order has maintained a satisfactory balance between producer milk supplies and the Class I requirements of regulated handlers. The relationship of the supply of producer milk to Class I sales in the additional territory proposed to be included in the Greater Louisiana marketing area is about the same as now exists under the present order. Hence, the Class I price adopted herein, together with the proposed Class II and Class III prices are contemplated to result in a blended price to producers at least equal to that which producers now receive under the present order.

To assure an adequate milk supply for the expanded market, it is essential that Class I prices under the Greater Louisiana order be closely aligned with Class I prices of other markets that represent alternative sources of supply. It is necessary that milk for Class I use in this market be competitively priced with milk supplies for other markets and with milk that is distributed in the Greater Louisiana area in competition with local producer milk.

The proposed Greater Louisiana marketing area borders two Federal order marketing areas—New Orleans and Texas. As indicated previously, the distribution areas of handlers that would be regulated by the Greater Louisiana order overlap with those of the New Orleans handlers selling in the Greater Louisiana area. At the time of the hearing, however, the distribution areas of Texas regulated handlers and handlers that would become regulated by this proposed order do not overlap. Part of the milkshed area of the proposed order overlaps extensively with the areas from which the New Orleans and Texas markets draw their milk supplies. In view of these circumstances, it is essential to the orderly marketing of producer milk that Class I prices in the Greater Louisiana area be closely coordinated with such prices in nearby markets.

The Class I prices under the present Order 96 and in adjacent Federal order markets were established to reflect such intermarket relationships. In order to continue this pricing concept under the proposed expanded order, the Class I prices throughout the Greater Louisiana area must be in proper relationship with the price structure for the region.

It is concluded that the Class I price at various locations within the proposed marketing area as adopted herein will provide the proper price relationships with nearby markets. The following table shows the Class I price by zones for the proposed Greater Louisiana order and for orders in nearby markets, as expressed for different locations in terms

of a price differential over the basic formula price:

| Order                                                              | Class I price differential |
|--------------------------------------------------------------------|----------------------------|
| Greater Louisiana:                                                 |                            |
| Shreveport-Monroe (Zone I).....                                    | \$2.47                     |
| Alexandria-Baton Rouge (Zone II).....                              | 2.66                       |
| Lake Charles-Lafayette (Zone III).....                             | 2.85                       |
| New Orleans.....                                                   | 2.85                       |
| Proposed New Orleans-Mississippi:                                  |                            |
| New Orleans (Zone 1).....                                          | 2.85                       |
| Three Louisiana parishes north of Lake Pontchartrain (Zone 2)..... | 2.67                       |
| Mississippi Gulf Coast area (Zone 2).....                          | 2.67                       |
| Jackson-Natchez-Vicksburg Mississippi area (Zone 3).....           | 2.45                       |
| Texas:                                                             |                            |
| Beaumont (Zone 8).....                                             | 2.68                       |
| Houston (Zone 8).....                                              | 2.68                       |
| Lufkin (Zone 4).....                                               | 2.50                       |
| Marshall (Zone 2).....                                             | 2.38                       |
| Dallas (Zone 1).....                                               | 2.32                       |

Additionally, the Class I price under the expanded order must be in proper relationship with the cost of obtaining quality milk on a regular basis from alternative sources. Reflecting this consideration in the level of Class I prices will tend to assure producers in the Greater Louisiana area of a continuing outlet for their milk. Conversely, if the proposed order provided Class I prices substantially higher than the cost of milk from alternative sources, and if such a significant cost advantage exists long enough, handlers customarily relying on local supplies will recognize such advantage and be encouraged to change their buying arrangement.

An important source of alternative milk supplies in the expanded marketing area as well as for many other markets throughout much of the United States is the Chicago milkshed. Consequently, Class I prices gradually increase the more distant the markets are from the Chicago area reflecting the additional cost of moving milk from such area to distant markets. This accounts for the graduated level of prices in the markets surrounding the Greater Louisiana market and the basis of adopting a graduation of Class I prices from north to south within the proposed marketing area. Generally, the graduation of Class I prices approximates a transportation rate of 1.5 cents per hundredweight per 10 miles.

The principal witness on Class I pricing, and as previously indicated, testified that his organization in 1974 imported additional milk supplies for a number of plants located in the southern segment of the proposed marketing area from Jim Falls, Wisconsin, which is in the Chicago milkshed. The Class I price differential under the Chicago Regional order, which uses the same basic formula price as adopted herein, is \$0.88 at Jim Falls. Based on the minimum order price at Jim Falls plus the transportation cost reflecting the location adjustment rates adopted herein, the cost of this alternative supply, for example at Lake Charles, is practically identical with the Greater Louisiana Class I prices for producer milk at this location.



In view of the foregoing, the proposal to provide a 30 cents higher Class I price differential than is herein adopted, as advanced by the principal spokesman on Class I pricing, would not result in a proper price relationship with surrounding markets or the cost of securing regular milk supplies from more distant points. Therefore, the proposal should be denied.

For reasons already discussed in these findings the Shreveport based handler's proposal to lower the Class I differential by 21 cents also is inappropriate. The record of the current proceeding does not support the handler's contention that the price difference of 21 cents between Shreveport and Little Rock is now inappropriate and contributing to disorderly marketing conditions. In fact, the record evidence clearly showed that Shreveport and Little Rock handlers do not compete either for producer milk supplies or sales. Accordingly, the proposal is denied.

**Class II and Class III prices.** The Class II price under the expanded order should be the basic formula price for the month plus 10 cents. The Class III price should be the basic formula price for the month. The prices should be announced by the 5th day after the month to which they apply, as now provided in Order 96.

These prices are now applicable under the Northern Louisiana order, and the proponents at the hearing proposed that the Class II price should continue as now provided. Such price was adopted effective August 1, 1974, and the hearing proceeding to expand the marketing area did not present changed circumstances that require a different Class II price level.

With respect to the Class III price, the proposal published in the hearing notice would provide the basic formula for the month as the Class III price. At the hearing, proponents modified the proposal to provide such price minus 15 cents per hundredweight for each of the months of March, April, May, June, and December.

Cost data introduced into evidence by the Northern Louisiana Milk Producers Association purported to reflect the cost per hundredweight of disposing of surplus milk as the basis for requesting a seasonal Class III differential of minus 15 cents under the Minnesota-Wisconsin price for the months specified.

These data, taken in concert with the direct testimony and cross examination on the issue, revealed that the "costs" were not solely related to the disposition of surplus milk. They were derived on an extrapolation basis from total costs of operating the balancing plant of the association, including the costs associated with serving the fluid requirements of its buyers. This is the heart of the matter—the cost of the surplus disposition is totally bound up with the balancing operation of the association.

It is apparent from evidence introduced into the record by the Northern Louisiana Milk Producers Association that a cooperative does incur various costs in performing such function. The extent of these costs is dependent on many factors such as the cooperative's

share of the market, the location and availability of surplus disposal outlets, whether it operates a manufacturing plant, and policies and practices of the organization and its management. If such costs were to be a main consideration in establishing the Class III price for an individual market such as the Greater Louisiana area, the Class III price would need to vary greatly among markets because supply balancing situations differ from market to market.

The costs of supply balancing services performed by a cooperative association appropriately should be recovered through service charges to the handlers who receive the benefit of the service. A cooperative's cost of supply balancing service varies among handlers according to each handler's procurement practices. A handler who regularly accepts the full production of a given number of producer-members of a cooperative association incurs the costs of balancing his own supply. A handler who limits his purchases of milk from a cooperative to 5 days a week, for example, to match his daily bottling schedule shifts the burden of balancing his milk supply to the cooperative. This is the situation that prevails both in the Order 96 area and in the area proposed for expansion.

Most balancing costs are attributable to the variation between the quantity of milk produced and the demand for milk for Class I use. Since the balancing costs are incurred in serving the Class I market, the incidence of the costs properly should fall on such use of milk. When the cooperative performs a balancing function for handlers the cost thereof reasonably should be recovered through the assessment by cooperatives of a service charge on their milk delivered to handlers for Class I use.

In considering the appropriate Class III price for the expanded area, it is consistent with the purposes of the Act that reserve milk supplies be priced at the highest practicable level compatible with the orderly disposal of the milk. Excess market supplies, as indicated by testimony and exhibits entered into the record, are channeled into manufactured products that compete on a national basis with similar products made from ungraded milk. It is essential, therefore, that the Class III price in the Greater Louisiana area be in close alignment with prices being paid by processors of manufacturing grade milk.

The Minnesota-Wisconsin price, which is now provided as the Class III price of Order 96, is a representative pay price for about half of the manufacturing grade milk in the United States. It reflects a farm price level determined by competitive conditions that are affected by the demand for all major manufactured dairy products. It also reflects the supply and demand of such products within a highly coordinated marketing system, which is national in scope. Use of the Minnesota-Wisconsin price as the Class III price under the Greater Louisiana order will result in order prices for surplus milk that are in close alignment with

the dominant price structure for raw milk within the manufacturing segment of the dairy industry.

Use of the Minnesota-Wisconsin price also tends to result in price parity between regulated and unregulated plants engaged in a similar enterprise since it provides the regulated manufacturer essentially the same margin for processing as is experienced in the unregulated market. The Minnesota-Wisconsin price is an average of prices being paid by processors who are meeting the competitive test of the unregulated market place. Competing processors of ungraded milk purchase their supplies from farmers at prices commensurate with the ability of the more efficient processors to pay for raw milk. As shifts in the relationship between finished product prices take place, one group of processors may be able to pay dairymen higher prices than another. Other processors generally must meet these prices or risk the loss of their milk supplies. If a dairy concern in the unregulated manufactured products market fails to make the necessary adjustments to meet procurement competition, it will, in time, be forced out of business. This is a normal business risk in the unregulated competitive market.

These points concerning the Minnesota-Wisconsin price were evaluated in the final decision which established the Minnesota-Wisconsin price as the Class III price of Order 96 effective August 1, 1974. Official notice of this aspect of the decision is hereby taken from 39 F.R. 8458-8459.

It is concluded that the Class III price provisions now provided by Order 96 represent the correct pricing procedure for the Greater Louisiana market, and such provisions are hereby adopted.

**3. Revision of location adjustments.** The present location adjustment provisions of the order should be revised to reflect appropriately the location values of milk at pool plants serving the expanded area as herein adopted. Accordingly, the order should be amended to include: (1) A system of location zone pricing at pool plants located within the marketing area; and (2) a revision in the basis for determining location adjustments at pool plants located outside of the marketing area.

**a. Zone pricing.** The expanded marketing area for purposes of applying location adjustments should be divided into three zones. The location adjustment for each zone and the Louisiana parishes included in each zone are:

#### ZONE I—NO ADJUSTMENT

|               |               |
|---------------|---------------|
| Blenville.    | Lincoln.      |
| Bossier.      | Madison.      |
| Caddo.        | Morehouse.    |
| Caldwell.     | Natchitoches. |
| Catahoula.    | Ouachita.     |
| Claborn.      | Red River.    |
| Concordia.    | Richland.     |
| De Soto.      | Sabine.       |
| East Carroll. | Tensas.       |
| Franklin.     | Union.        |
| Grant.        | Webster.      |
| Jackson.      | West Carroll. |
| La Salle.     | Winn.         |



## ZONE II—PLUS 19 CENTS

|                   |                   |
|-------------------|-------------------|
| Allen.            | Pointe Coupee.    |
| Avoyelles.        | Rapides.          |
| Beauregard.       | St. Helena.       |
| East Baton Rouge. | St. Landry.       |
| East Feliciana.   | Vernon.           |
| Evangeline.       | West Baton Rouge. |
| Livingston.       | West Feliciana.   |

## ZONE III—PLUS 38 CENTS

|             |                       |
|-------------|-----------------------|
| Acadia.     | Jefferson Davis.      |
| Ascension.  | Lafayette.            |
| Assumption. | St. James.            |
| Calcasieu.  | St. John the Baptist. |
| Cameron.    | St. Martin.           |
| Iberia.     | St. Mary.             |
| Iberville.  | Vermilion.            |

A proposal of the proponents of marketing area extension, as set forth in the hearing notice, would provide for three pricing zones within the marketing area. Under their proposal, Zone I would include the 25 most southern and southeastern unregulated Louisiana parishes to be included as a part of the expanded marketing area. Zone II would consist of nine unregulated parishes located in central Louisiana. Additionally, they proposed that the northern portion of the expanded marketing area be designated Zone III which would contain all of the territory included in the present Northern Louisiana marketing area plus 10 additional Louisiana parishes.

A Class I differential of \$2.85, under their proposal, would apply in Zone I. This zone would be the base zone and from which a minus 19 cents and 38 cents per hundredweight location adjustment would apply to plants located in Zone II and III, respectively. Their proposal would provide an effective Class I differential of \$2.85 in Zone I, \$2.66 in Zone II and \$2.47 in Zone III.

At the hearing, however, proponents relied on the testimony presented by Dairyman, Inc., regarding the entire location adjustment issue. This cooperative association supported dividing the expanded marketing area into the same three zones as proponents proposed. However, the association recommended a Class I price differential of \$3.15 per hundredweight in the base zone (Zone I) from which the minus 19 cents (Zone II) and minus 38 cents (Zone III) location adjustments would apply. (The proposal of the cooperative to use a \$3.15 Class I price differential in the base zone was previously discussed in conjunction with findings concerning class prices.)

The cooperative association contended that zone price differences were necessary to reflect the distances and cost of transporting milk between the major population centers included in the expanded marketing area.

A representative of a Shreveport handler, who operates a pool distributing plant regulated by the present order and who has extensive fluid milk sales throughout southwestern Louisiana, testified that the zone designations by proponents be reversed with the territory encompassing Northern Louisiana designated as Zone I or the base zone and the Southern Louisiana area designated as Zone III. The witness stated that this

change would result in price alignment within the marketing area reflecting the usual differences in price relationships from north to south as distance from Chicago increased.

To carry out the objectives of assuring adequate supplies, it is essential to establish proper Class I price relationships between and among handlers located in the 44 parishes proposed to be added to the market with handlers located in the present marketing area. This is a most important consideration in view of the size of the expanded marketing area herein adopted. Also, Class I milk in these 44 parishes must be competitively priced with milk supplied to other nearby markets and with other milk that is distributed in these parishes in competition with local producer milk.

Alexandria, Baton Rouge, Lafayette, Lake Charles, Monroe, and Shreveport are the principal consuming centers in the proposed expanded marketing area. These primary markets are in competition for milk supplies with a number of important secondary markets or population centers within the expanded marketing area, located at varying distances from each other. The location price structure, therefore, should be such that adequate supplies of milk will be attracted to both the secondary as well as to the primary markets located within the expanded marketing area.

Milk supplies in the proposed Greater Louisiana area generally move from north to south. The northern portion of the marketing area is closest to the heavy producing Chicago milkshed. When supplemental supplies are needed for use in the proposed marketing area they are sometimes procured from this region. The cost of such supplies increase as they move further south reflecting additional transportation cost. This increased cost should be reflected in higher Class I prices in the central and southern portions of the extensive marketing area encompassed by the proposed order.

Therefore, to best reflect the value of milk at various locations within the expanded marketing area, a zone price structure should be employed. Accordingly, the expanded marketing area for pricing purposes should be divided in three zones. These zones are designated as Zone I, II and III.

Zone I as herein defined embraces the northern portion of the expanded marketing area. This zone contains all the territory included in the present Northern Louisiana marketing area plus 16 additional Louisiana parishes located east, south and southeast of the present marketing area.

The total population of the zone is about 871,700 with nearly 54 percent of this number concentrated in two metropolitan areas. These areas are Shreveport (population of 345,500) and Monroe (122,300).

A substantial proportion of the present order's total supply of milk is produced on farms located in Zone I. The record shows that in December 1974 about 190 dairy farmers located in Zone I qualified

as producers under Order 96 by virtue of their deliveries of milk to pool plants. This represented about 73 percent of the total number of producers on the market for that month.

The unregulated portion of Zone I that is included in the expanded marketing area, as herein adopted, is not expected to bring under full or partial regulation any additional plants. Therefore, only the present eight Order 96 pool plants (one is a supply plant) are located in this zone. Five of these plants are located in Shreveport, two in Monroe and one in Minden, Louisiana.

The seven pool distributing plants so located have route distribution throughout the zone. Additionally, a distributing plant that is fully regulated by the New Orleans order and a Lafayette, Louisiana partially regulated distributing plant have limited route distribution in the Zone I territory.

In 1974, 30 percent of the total packaged disposition of Northern Louisiana pool distributing plants was outside of the marketing area. All of such disposition was made in the unregulated territory that would be added to the marketing area and a large part of it was in the areas included in proposed Zones II and III. Additionally, the principal proponent cooperative association, who operates a pool supply plant under the present order, testified that it had bulk milk disposition to fluid milk plants located in Zones II and III of the proposed marketing area.

The present Class I price applicable at all of the pool plants under Order 96 is \$2.47 over the Minnesota-Wisconsin manufacturing grade milk price. It was concluded previously in this decision, that this Class I price structure, except for location, should continue under the expanded order.

In view of the foregoing and in recognition that Zone I is generally closer to the area of heavy milk production and thus has accessibility to alternative supplies of milk at lower costs than in the other zones as herein adopted, a Class I differential of \$2.47 should apply to plants located therein.

A pricing zone to be designated as Zone II should be established to include 14 Louisiana parishes that are located immediately south and southeast of the territory included in Zone I. This zone would comprise a portion of the presently unregulated territory that will become regulated under the area expansion. The total population of the zone is about 784,800. Its principal consuming centers are the metropolitan areas of Alexandria and Baton Rouge with a population of 136,100 and 401,900, respectively.

The annexation of this territory to the marketing area is expected to bring under full regulation four additional distributing plants. Two of these plants are located at Baton Rouge and one each at Alexandria and Opelousas.

A substantial portion of these four distributing plant's fluid milk sales are made within the territory included in Zone II. All of these four plants, however,



have some route distribution in the Zone III area as herein adopted. Additionally, the two Baton Rouge based distributing plants compete for sales in the Louisiana parishes of St. Tammany and Tangipahoa. This area is a part of the presently unregulated territory that is proposed to be annexed to the expanded New Orleans marketing area.<sup>1</sup>

At the time of the hearing, there were two Shreveport based Northern Louisiana and four New Orleans pool distributing plants that had route disposition in a portion of the area included in Zone II. Also, four distributing plants located in the proposed Zone III area and an unregulated distributing plant located at Bogalusa, Louisiana, have route disposition in the area.

The record evidence indicates that nearby direct shipped milk from dairy farms is not adequate to meet the total fluid needs of the four Zone II based plants resulting in the milk supply area extending outward a considerable distance from the location of such plants. Consequently, the supply areas of the Zone II based plants overlap extensively with plants located in the herein adopted Zone III and New Orleans market. For example, the two Baton Rouge plants obtain a large part of their milk supply from dairy farmers located north, northeast and east of Baton Rouge. Also, this area is the principal production area from which New Orleans plants obtain a large portion of their milk supply. Similarly, the Alexandria and Opelousas based plants compete principally with plants located in the area herein designated as Zone III for the declining supplies available in southwest Louisiana. Therefore, this competition for milk supplies must be considered in determining the appropriate value of milk at plants located in Zone II. Unless this consideration is taken into account, plants so located may encounter difficulties in holding a milk supply.

In view of these and other considerations set forth herein a Class I differential 19 cents higher than that which is applicable for Zone I should apply to plants located in Zone II.

The unregulated area encompassing the 14 southern tier Louisiana parishes included in the expanded marketing area, as herein adopted, should comprise a single pricing zone and be designated as Zone III. The total population of the zone is about 693,200 with nearly 40 percent of this number concentrated in its two metropolitan areas of Lafayette and Lake Charles. Other smaller market centers in the zone include Crowley, Morgan City and New Iberia.

Presently, there are nine plants located in Zone III. One of these plants is a partially regulated distributing plant under the present Northern Louisiana order and another is a balancing plant operated by the principal cooperative associated with the New Orleans market.

Historically, the Zone III based plants have relied, to the extent available, on local milk supplies in meeting their Class I requirements. However, the record clearly shows, that during certain months (particularly the fall months) of the year these local supplies have not been adequate in meeting the total fluid milk needs of certain plants. Consequently, these plants must rely on supplemental milk supplies.

Northern Louisiana Pure Milk Producers Association and Dairymen, Inc., have been the principal suppliers of supplemental milk to the Zone III plants. In 1974, the former cooperative furnished supplemental supplies to at least four Zone III based plants from its pool supply plant at Shreveport. Such movements were made to plants located at Lafayette, Lake Charles and New Iberia. The mileage from Shreveport to each of these cities is about 213, 181 and 236, respectively.

Dairymen, Inc., also supplies Zone III plants with substantial quantities of milk from its Franklinton, Louisiana, non-pool balancing plant. This plant is located in the principal milk supply area for the Baton Rouge and New Orleans market. In 1974, the cooperative association also had milk movements into Zone III from its Georgia, Nashville, Mississippi and Kyana (principally Kentucky) operating divisions. The spokesman for the cooperative testified that during the last four months of 1974 his association moved more than two million pounds of milk into the Zone III area from supply plants located in Georgia, Tennessee, Wisconsin, Oklahoma, Kentucky and Mississippi. Additionally, the Gulf Dairymen's Association, which is primarily associated with the New Orleans market, supplied supplemental milk to a Zone III based distributing plant located at Abbeville, Louisiana.

Handlers operating pool distributing plants under the present New Orleans and Northern Louisiana orders have route disposition in the area included in Zone III. At the time of the hearing, there were six New Orleans plants with route disposition in the zone. The two Northern Louisiana plants distribute fluid milk in the southwest portion of the area. Also, the four distributing plants located in Zone II, as adopted herein, have some route disposition in Zone III.

This zone is the farthest from the upper midwestern area from which alternative supplies of milk are obtained. For this reason, and also for other considerations set forth herein, a plus location adjustment of 38 cents per hundredweight should apply to plants located in Zone III. This location adjustment will result in an effective Class I price differential of \$2.85 for the zone which is 19 cents per hundredweight over the Zone

II price and 38 cents over the Zone I price.

As herein adopted, the territory included and the applicable Class I price established for each zone is coordinated and closely aligned with the zone pricing structure as provided in the proposed New Orleans-Mississippi order. This will tend to insure the Greater Louisiana handlers equal access to the limited regional milk supply in competition with New Orleans and Mississippi handlers and vice-versa. It will also assure that orderly marketing is promoted by having similar minimum prices for all plants similarly located irrespective of under which order the plant is regulated. Finally, the coordinated scheme of zone pricing, as herein adopted, reflects the dominant influence on milk marketing practices throughout Louisiana by the New Orleans market.

The three pricing zones adopted herein will not change the applicable price at plants presently regulated under the Northern Louisiana order. Accordingly, the present Class I differential of \$2.47 will continue to apply to the presently regulated plants under the expanded order.

The parishes included in each zone differ somewhat from those that were proposed by proponents of area extension. Except for the Baton Rouge area, these differences would not change the applicable Class I price differential at plants serving the principal consuming centers of the expanded marketing area as proposed by proponents. The two plants at Baton Rouge, however, would be in a 19 cents lower price zone than proposed by proponents.

As indicated, a substantial part of the supply area for Baton Rouge overlaps the primary portion of the common supply area for the New Orleans market. The distance from this common supply area to New Orleans is significantly greater than to Baton Rouge. As a result, producers delivering from the common supply area to a New Orleans plant would net a lesser return as compared to producers delivering to a Baton Rouge plant because of the longer haul and hence higher hauling costs. If identical pricing applied to both markets, this situation, undoubtedly, would provide the Baton Rouge based plants priority of call on a greater than necessary milk supply while New Orleans based plants might be in need of milk. Such a situation, however, could not promote continued orderly marketing over a period of time under either the proposed Greater Louisiana or New Orleans-Mississippi orders. In view of this and for reasons discussed previously in these findings, the Class I differential appropriately at Baton Rouge should be \$2.66 which is 19 cents less than would apply at Zone III and New Orleans based plants.

It is concluded, therefore, that the zone price structure adopted herein will appropriately reflect the location value of milk at various points in the extensive expanded marketing area encompassed by the attached order.

<sup>1</sup> A decision amending the New Orleans Federal order, resulting from a hearing held April 22-26, 1975 (Docket No. AO-103-A38), is being issued simultaneously with the Greater Louisiana decision. The New Orleans decision designates the expanded area of regulation as the "New Orleans-Mississippi marketing area." Therefore, any reference that is made to the proposed New Orleans amendatory action in this decision (Greater Louisiana) will be referred to as the "proposed New Orleans-Mississippi order."



b. *Out-of-area location adjustments.* The location adjustment provisions of the order as they apply to a plant located outside the marketing area should be revised to reflect changes in the marketing area and the establishment within the expanded marketing area of a location zone pricing structure. To accomplish this purpose, the attached order provides the following: (1) The applicable zone location adjustment within the marketing area is extended on an east-west direction to apply to any plant located in any Louisiana parish not included in the adopted marketing area and certain specified nearby Mississippi and Texas counties.

(2) At a plant located outside the marketing area and not in any of the Louisiana parishes and nearby Mississippi and Texas counties in which the zone location adjustment rate would apply, the Class I and uniform prices of the expanded order should be reduced at the rate of 1.5 cents per hundred-weight for each 10 miles or fraction thereof that such plant is located more than 50 miles from the nearest of the city halls in Monroe or Shreveport, Louisiana.

The present location adjustment rate is 1.5 cents for each 10 miles or fraction thereof that a plant is located at least 50 miles from the nearer of the city hall in Minden or Monroe, Louisiana. Since all of the fully regulated plants under the present order are within 50 miles of the two basing points, no location adjustments apply to these plants.

The producer organizations proposing the extension of regulation into the 44 additional Louisiana parishes relied on the position taken by Dairymen, Inc., (DI) at the hearing regarding out-of-area location adjustments, even though their original proposal on location adjustments was included in the hearing notice. Accordingly, DI proposed a complete restructuring of location adjustments applicable to plants located outside the marketing area. Under their proposal, and in conjunction with their zone pricing proposal as previously discussed, no location adjustment would apply to a plant located in any Louisiana parish which is not included in the marketing area as herein adopted.

At a plant location outside of the State of Louisiana and east or west of the boundaries of the marketing area, DI proposed a location adjustment rate the same as that for the zone in which its latitude coincides with a plant located within the marketing area. At a plant located north of a line running in an east-west direction between the Arkansas-Louisiana borders, the cooperative proposed a location adjustment rate of 20 cents to be applicable between 50 and 60 miles from the nearer of Baton Rouge and Lake Charles, and an additional two cents for each 10 miles distance or fraction thereof in excess of 60 miles from the nearer of such basing points.

Appropriate pricing at out-of-area plants is related to the problems of providing supplies for outlets in the mar-

keting area and of achieving uniform prices for regulated handlers similarly located. In this context, consideration must be given to the cost associated with distance in moving milk from outlying supply plants to the various market centers for fluid processing and disposition and the maintenance of a reasonable price alignment with other regulated markets. These considerations are reflected in the system of location pricing at out of area plants adopted herein.

The attached order provides that the adopted zone location adjustments applicable to in-area plants is extended to any plant located in close proximity to the east-west boundaries of the marketing area that may become regulated under the proposed order. The nearby areas in which such location zone pricing would apply are now a part of either the present New Orleans or Texas order marketing areas or are included in the proposed New Orleans-Mississippi marketing area.

Extending zone pricing to apply to plants located just outside of the east-west borders of the adopted marketing area will provide a price structure at plants so located at a level the same as at plants located within the applicable zone. This pricing concept recognizes the overlapping route distribution of in-area and nearby out-of-area plants and the fact that producers with alternative fluid outlets experience no recognizable transportation cost savings in delivering their milk to the nearby out-of-area plants.

The application of zone pricing to any out-of-area plant located east or west from the adopted marketing area, regardless of distance from the central market as proposed by DI, would totally disregard the factor of transportation as a necessary input in determining the economic value of milk at outside plant locations in relation to its value f.o.b. the marketing area. Appropriately, pricing at distant plants must recognize the factor of transportation to implement equity among handlers in product costs. The proposal is, therefore, denied.

The major population centers in the adopted Zone I pricing zone should be used as the basing points for computing location adjustments at distant plants. This will maintain the general pattern of location adjustments of the present order throughout the expanded marketing area. It will also preserve essentially the price alignment that now exists between the present order and surrounding Federal order markets.

Shreveport should be added and Minden (as provided under the present Northern Louisiana order) deleted as a basing point from which location adjustments are computed. This change more appropriately establishes basing points for computing location adjustments reflecting the major population centers of the base zone (Zone 1). The adoption of Shreveport as one of the basing points will not change the price structure at any plants presently regulated under the order.

Dairymen, Inc., proposed that the zone comprising the southern and southeastern portion of the expanded marketing area be the base zone. In this connection, it proposed Baton Rouge or Lake Charles whichever is the nearer, as the basing point from which distance would be determined. The spokesman for the cooperative did not present any specific testimony in support of this proposal other than it was an integral part of their overall location pricing proposition.

A location adjustment rate of 1.5 cents per 10-mile distance (as now provided in the order) is appropriate under the expanded order. This rate is recognized as being reasonably reflective of the variable cost associated with transporting milk from distance points and is generally used in other Federal orders. Use of a different rate would result in serious price disparities with surrounding markets which compete for Class I sales and milk supplies. This could only disrupt marketing conditions further, and would seriously hinder the attainment of the objectives sought by proponents through Federal regulation.

The cooperative strongly urged the adoption of a 2 cent per 10-mile distance rate. It contended that the present 1.5 cent location adjustment rate, which has been in use a number of years, does not now reflect the cost of transporting milk from distance plants to the market.

In support of its position, the cooperative relied on data showing the actual freight it paid on milk movements during the 1974 fall period originating at Jim Falls and Turtle Lake, Wisconsin and shipped to southwestern Louisiana cities and to other metropolitan areas in which the cooperative operates. Such milk movements were made on a spot or incidental basis. These data showed hauling rates varying from 1.8 cents to 2.3 cents for each 10-mile distance. The spokesman for the cooperative association also presented additional information showing substantial increases in various items affecting transportation costs, such as trucks, tanker, and fuel costs.

A number of witnesses testified that the cost of transporting milk has recently increased. However, the cost of transportation, per se, is not the sole factor affecting the location adjustment rate level established under a given order. The rate, appropriately, must also reflect the economic value of milk to the producer at a particular location corresponding to the price he can obtain by shipping to an alternative market. Orderly marketing is achieved by maintaining a similar pattern of prices for regulated plants in the Federal order system similarly located.

Paramount in any consideration of price level is the assurance of an adequate milk supply for the regulated market. It is clear that prices in Federal order markets in the region have generated ample milk supplies. Under such circumstances, it is neither appropriate nor necessary to establish higher prices in this market solely to reflect the currently higher transportation costs for moving milk. Such objective can only be accom-



plished through a general hearing covering all Federal orders. At any such hearing, one of the matters which would have to be resolved would be how this might be accomplished within the limits of the present variation in Class I prices from north to south. Further, if the total difference in prices north to south were to be increased, an important consideration at such hearing would center on how this might be accomplished under the standards of the Act and existing supply-demand relationships. Therefore, the higher location adjustment rate as proposed by the cooperative should not be adopted.

c. *Application of location adjustment credits.* The present order procedure for applying and limiting location adjustment credits to transfers between pool plants was adopted to deter the uneconomic movements of reserve milk to the market centers for manufactured uses at the expense of the pool. The basic concept of this procedure should be continued under the expanded order as herein adopted. However, to fully integrate this concept with the pricing structure adopted herein (which includes an announced Class I price for Zone I with plus price adjustments for other locations within the expanded marketing area), necessitates modifying the location adjustment credit provision.

No location adjustment credit should apply to Class I transfers shipped by pool plants to lower-priced zones. Under normal circumstances, this would not be a usual movement of milk. However, it could occur, for instance, if a Zone III based plant received milk in excess of its fluid requirements and marketed such excess to the Alexandria based plant which is located in a lower-priced zone. Similarly, the Alexandria based plant could sell its excess milk over fluid requirements plants located in the lower-priced Zone I.

It was previously concluded in this decision that a higher Class I price level was necessary at Zone II and III locations to attract milk to these areas for Class I use there; not for reshipment to lower-priced zones. The latter should not be implemented by a location adjustment credit on such milk movements which would have the effect of requiring the pool to bear the cost of such movements.

Additionally, and for clarification purposes only, the location adjustment credit provisions are revised further to reflect greater specificity in computing location adjustment credits as they apply to transfers between pool plants.

4. *Miscellaneous and conforming changes.* (a) *Pool plant.* As indicated previously in this decision, orderly marketing can be assured for the expanded area only through marketwide pooling. Essential to the operation of a marketwide pool is the establishment of minimum performance requirements to distinguish between those plants substantially engaged in serving the needs of the regulated market and those plants that do not serve the market in a way or to

a degree that warrants their sharing (by being included in the pool) in the Class I utilization of the market. The pooling standards for distributing plants, supply plants, and cooperative balancing plants that are contained in the attached order would carry out this concept under present marketing conditions.

The "pool plant" definition adopted herein sets forth all of the requirements that a plant must meet in order to participate fully in the equalization fund. For this reason, separate definitions of a "distributing plant" and "supply plant" as now provided in §§ 1096.5 and 1096.6 of the Northern Louisiana order are not provided in the attached order. Reference is made, however, in this decision to such types of plants because the adopted pooling standards relate to plants performing different types of functions in the market.

No substantive change is made herein in the pool plant provisions relating to distributing and supply type plants. Some revisions are made in the provisions relating to balancing plants operated by cooperative associations and in the provisions for determining where a plant is pooled if it is subject to pooling under more than one Federal order.

The expanded order should provide for the pooling of a "balancing" plant operated by a cooperative association if during the month 60 percent or more of the milk of the cooperative's member producers is physically received at pool distributing plant from farms or by transfer from the cooperative's balancing plants for which pool status is requested. The 60 percent requirement should be exclusive of the cooperative's member milk handled through supply plants. Such pool status should be limited to those plants that are located in the marketing area and approved by a duly constituted regulatory agency for disposition of Grade A milk in the marketing area. The plant should not be a pool balancing plant if it meets the pooling standards for distributing plants or supply plants under this or any other Federal order.

The cooperative association advocating the expansion of the marketing area requested that the present order provisions for pooling a cooperative association balancing plant be continued in the expanded order. The present order now provides for the pooling of a cooperative balancing plant if 60 percent or more of the cooperative's member producers is received at pool distributing plants by transfer from the cooperative's balancing plant or directly from farms.

At the time of the hearing, the Northern Louisiana Pure Milk Producers Association—a proponent of area extension—operated a pool balancing plant at Shreveport which is located in both the present and proposed marketing areas. The plant, which has been operated by the cooperative for a number of years, has both storage and cooling facilities and is used solely for balancing the market's supplies. Its operation has enabled the cooperative to distribute efficiently

the market's milk supply among handlers in accordance with their day to day requirements and has facilitated the assembly of excess supply for movement to manufacturing outlets.

Most of the milk in the present market moves direct from the farm to distributing plants in amounts required for Class I use. Milk not so needed, and for which there is no other Class I outlets available, is moved to the Shreveport plant where it is assembled for shipment in large over-the-road tankers to available distant manufacturing facilities.

The nature of the operations of this plant, which performs a necessary balancing function in the market, would not result in pool status for the plant under the standards herein provided for either a pool distributing or supply plant. It is appropriate, therefore, that the Shreveport plant, or any other such cooperative operated plant, be accorded pool status under the expanded order. According pool status to a cooperative balancing plant meeting the performance standards as herein provided will implement orderly marketing by pooling all of the milk regularly associated with the market.

As a further condition of pooling a cooperative balancing plant, only a cooperative plant located in the expanded marketing area should be eligible for pooling. The expanded marketing area proposed herein includes all of the distributing plants that are expected to be pooled under the order, as well as the primary production area. In this situation, it is only those cooperative association plants located in the marketing area that can be expected to perform market balancing functions.

Pool plant status should be accorded to only those cooperative balancing plants located in the marketing area that are approved by a duly constituted regulatory agency for disposition of Grade A milk. Such provision is needed to assure that the plant can be depended upon for supplemental milk supplies when such are needed at pool distributing plants. Since the expanded order would not require any minimum shipments to the market from a cooperative balancing plant, a requirement must be provided for assuring that milk pooled through a balancing plant is in fact Grade A milk acceptable for fluid use throughout the expanded marketing area. A requirement of continuing approval for the plant will accomplish this end.

Providing pool status to a cooperative plant under the specified conditions herein provided will facilitate the efficient handling of the market's regular milk supply. However, according pool status to such a plant is not intended as a means of providing a cooperative the opportunity to associate additional milk with the market that is not needed.

It is possible under the requirements provided by the order that a distributing plant or a supply plant may meet the pooling requirements of two orders during the same month. As under the present



Northern Louisiana order, the expanded order should provide certain guidelines for determining under which order the plant should be regulated.

A distributing plant that has route disposition in two marketing areas reasonably should be regulated in the market in which it has the greater route sales. However, if a plant that has been regulated under the expanded order should have greater sales in another market, the plant should remain regulated under the expanded order until the third consecutive month in which it has greater disposition in the other marketing area. The possibility of plants being associated with the Greater Louisiana market and other adjacent markets, particularly New Orleans, does exist. Accordingly, this provision should be provided for the expanded order.

Pool status should not apply to a supply plant that has automatic pool status under another order but also qualifies as a pool plant under the expanded order on the basis of shipments provided herein.

(b) *Producer-handler.* Order 96 now provides a definition of producer-handler which should be included in the expanded order subject to certain modifications described herein.

The provisions of the expanded order would preclude a producer-handler from disposing of other source milk (such as nonfat dry milk) as Class I milk, except to increase the nonfat milk solids content of the fluid milk products he processes. Such provision is necessary to assure that a producer-handler does not rely upon milk or milk products for Class I use that may be available for less than the order's Class I price. In the absence of any requirement to pay class prices for milk, a producer-handler could find it advantageous to reconstitute nonfat dry milk, for example, and sell it in fluid form to consumers. With nonfat dry milk carrying only a surplus milk value, competing regulated handlers would be at a disadvantage on their Class I sales.

Under the expanded order, producer-handler status would be contingent on such person proving to the market administrator that the operation of the dairy farm and processing plant in question are at his sole risk. A producer-handler's exemption from the pooling and pricing provisions is based upon the basic self-sufficiency of the total operation. Accordingly, no other person should be permitted to share the risk involved with the operation of a producer-handler's farm or his plant. All resources necessary to his own farm production of milk must be his personal risk. Similarly, all risk associated with the operation of the processing plant must be that of the producer-handler.

The risk concept, however, need not extend to the actual distribution on routes of the milk processed by the producer-handler. A jobber, for example, might pick up packaged fluid milk products at the dock of a producer-handler's plant for delivery to retail outlets. Although the producer-handler would not be assuming the risk of distribution in

this case, neither would a regulated handler operating in similar fashion with respect to fluid sales from his plant.

The producer-handler definition should be revised further to provide that the quantity of fluid milk products that a producer-handler may purchase from pool and other order plants during the month should not exceed a daily average of 1,500 pounds. Presently, the Northern Louisiana order does not limit the quantity of fluid milk products that a producer-handler may purchase from pool plants.

Essentially, the basis of exempting a producer-handler from the pricing and pooling provisions of the order is that the operation of a producer-handler is self-sufficient. The milk that is processed, packaged, and distributed by a producer-handler is obtained from his own farm production. In this way, any fluctuations in a producer-handler's daily and seasonal milk needs is met through his own farm production and not at the expense of the pool. However, an operator who receives milk from his own farm and who relies on pool plants for substantial supplies either in bulk or packaged form is not significantly different than the operations conducted by a pool handler. Under such circumstances, the operator does not assume the risk or cost of providing a full supply for his own needs as does a pool handler. If such an operation is not fully regulated, the pool does not receive the benefits of its Class I sales but acts as a supply balance for such producer-handler by carrying his necessary reserve milk supplies. Such an operator should not have producer-handler status under the proposed order, but should be accorded pool status similar to that of any other handler receiving milk directly from dairy farms.

Notwithstanding, it is appropriate that producer-handlers be permitted some tolerance for purchasing fluid milk products from pool or other order plants. A limitation of 1,500 pounds per day average during the month on a producer-handler's purchases from such plants will insure against the unintentionable involvement in regulation of producer-handlers as a group. This limitation will also insure that producer-handlers will not have any significant advantage over regulated handlers under present marketing conditions.

(c) *Handler on bulk tank milk.* The expanded order should continue to provide that a cooperative association be the handler for milk of producers it receives for the account of the cooperative from the farm in a tank truck operated by, or under the control of, such cooperative for delivery to a pool plant. However, should there be mutual agreement between the cooperative and the operator of the pool plant whereby the plant operator purchases such milk on the basis of farm weights and butterfat tests, the cooperative should not be the handler under such an arrangement.

Under the current order, a cooperative association must be the handler for milk it receives from the farm for delivery to

a pool plant in a tank truck owned and operated by, or under contract to, such association.

As a handler for such milk, a cooperative is required to file a payroll report showing the weights and butterfat content of the milk of the individual producers involved and of reporting the quantities of such milk delivered to each pool plant. The cooperative's obligation to the producer-settlement fund on such milk is for that portion of milk received from a producer's farm for delivery to pool plants that is not accounted as actually received at a pool plant because of a difference between the weight and test of milk received at the plant and the weight and test as picked up at the farm. In this connection, a cooperative's monetary obligation to the pool on the difference in these amounts usually is shrinkage which is determined in accordance with its value under the shrinkage provisions. Such monetary obligations are normally small. However, if the operator of the pool plant was the responsible handler in certain instances on farm tank milk these small monetary obligations by the cooperative would be eliminated.

The record indicates that handling arrangements between cooperative associations and plants that would become fully regulated under the expanded order vary considerably. Accordingly, in certain circumstances it could be mutually beneficial to both the cooperative association and the operator of the pool plant for the latter to be the responsible handler for farm bulk tank milk it receives from the cooperative. Therefore, the expanded order appropriately provides an optional basis upon which the operator of the pool plant rather than the cooperative is the responsible handler on farm bulk tank milk it receives from the cooperative.

(d) *Deletion of obsolete language.* The attached order deletes certain obsolete language which has no application to the classification and pricing of milk under either the present or proposed order. Accordingly, such deletions will not affect the scope and application of the proposed order.

#### RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

#### GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and deter-



minations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundred-weight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1096.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

#### RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Greater Louisiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

#### PART 1096—MILK IN GREATER LOUISIANA MARKETING AREA

##### Subpart—Order Regulating Handling

##### GENERAL PROVISIONS

- Sec.  
1096.1 General provisions.

##### DEFINITIONS

- Sec.  
1096.2 Greater Louisiana marketing area.  
1096.3 Route disposition.  
1096.4 Plant.  
1096.5 Reserved.  
1096.6 Reserved.  
1096.7 Pool plant.  
1096.8 Nonpool plant.  
1096.9 Handler.  
1096.10 Producer-handler.  
1096.11 [Reserved]  
1096.12 Producer.  
1096.13 Producer milk.  
1096.14 Other source milk.  
1096.15 Fluid milk product.  
1096.16 Fluid cream product.  
1096.17 Filled milk.  
1096.18 Cooperative association.

##### HANDLER REPORTS

- 1096.30 Reports of receipts and utilization.  
1096.31 Payroll reports.  
1096.32 Other reports.

##### CLASSIFICATION OF MILK

- 1096.40 Classes of utilization.  
1096.41 Shrinkage.  
1096.42 Classification of transfers and diversions.  
1096.43 General classification rules.  
1096.44 Classification of producer milk.  
1096.45 Market administrator's reports and announcements concerning classification.

##### CLASS PRICES

- 1096.50 Class prices.  
1096.51 Basic formula price.  
1096.52 Plant location adjustments for handlers.  
1096.53 Announcement of class prices.  
1096.54 Equivalent price.

##### UNIFORM PRICE

- 1096.60 Handler's value of milk for computing uniform price.  
1096.61 Computation of uniform price.  
1096.62 Announcement of uniform price and butterfat differential.

##### PAYMENTS FOR MILK

- 1096.70 Producer-settlement fund.  
1096.71 Payments to the producer-settlement fund.  
1096.72 Payments from the producer-settlement fund.  
1096.73 Payments to producers and to cooperative associations.  
1096.74 Butterfat differential.  
1096.75 Plant location adjustments for producers and on nonpool milk.

- Sec.  
1096.76 Payments by handler operating a partially regulated distributing plant.  
1096.77 Adjustment of accounts.

##### ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

- 1096.85 Assessment for order administration.  
1096.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1096 issued under secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

##### GENERAL PROVISIONS

##### § 1096.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

##### DEFINITIONS

##### § 1096.2 Greater Louisiana marketing area.

The "Greater Louisiana marketing area," hereinafter called the "marketing area," means all territory within the boundaries of the following Louisiana parishes, including all piers, docks, and wharves connected therewith and all craft moored thereat, and all territory occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part thereof is within any of the listed parishes:

##### ZONE I

|               |               |
|---------------|---------------|
| Bienville.    | Lincoln.      |
| Bossier.      | Madison.      |
| Caddo.        | Morehouse.    |
| Caldwell.     | Natchitoches. |
| Catahoula.    | Ouachita.     |
| Claborn.      | Red River.    |
| Concordia.    | Richland.     |
| De Soto.      | Sabine.       |
| East Carroll. | Tensas.       |
| Franklin.     | Union.        |
| Grant.        | Webster.      |
| Jackson.      | West Carroll. |
| La Salle.     | Winn.         |

##### ZONE II

|                   |                   |
|-------------------|-------------------|
| Allen.            | Pointe Coupee.    |
| Avoyelles.        | Rapides.          |
| Beauregard.       | St. Helena.       |
| East Baton Rouge. | St. Landry.       |
| East Feliciana.   | Vernon.           |
| Evangeline.       | West Baton Rouge. |
| Livingston.       | West Feliciana.   |

##### ZONE III

|             |                       |
|-------------|-----------------------|
| Acadia.     | Jefferson Davis.      |
| Ascension.  | Lafayette.            |
| Assumption. | St. James.            |
| Calcasieu.  | St. John the Baptist. |
| Cameron.    | St. Martin.           |
| Iberia.     | St. Mary.             |
| Iberville.  | Vermilion.            |

##### § 1096.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product(s) classified as Class I milk from a plant to wholesale or retail outlets (including any disposition by a vendor, from a plant store, or through a vending machine) other than a delivery to another plant.

##### § 1096.4 Plant.

"Plant" means the land, buildings together with their surroundings, facilities and equipment whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received and/or processed or packaged: *Provided*, That a separate establishment used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distributing depot for fluid milk products in transit for route disposition shall not be a plant under this definition.

##### § 1096.5 [Reserved]

##### § 1096.6 [Reserved]

##### § 1096.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any plant that is approved by a duly constituted regulatory agency for



the processing and/or packaging of fluid milk products eligible for distribution in the marketing area under a Grade A label and from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area of not less than 10 percent of such eligible fluid milk products; and

(2) Total route disposition, except filled milk, equal to not less than 50 percent of such fluid milk products which are physically received at such plant or diverted to a nonpool plant as producer milk pursuant to § 1096.13.

(b) Any plant, other than a plant described in paragraph (a) or (c) of this section, that is approved by a duly constituted regulatory agency for the disposition of fluid milk products eligible for distribution in the marketing area under a Grade A label and from which during the month not less than 50 percent of the total quantity of Grade A milk that was physically received at such plant from producers and handlers described in § 1096.9(c) or diverted therefrom by the plant operator or cooperative association as producer milk to a nonpool plant pursuant to § 1096.13 is transferred during the month to a plant(s) described in paragraph (a) of this section. Such plant that was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements, unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for any of the remaining months through August.

(c) Any plant located in the marketing area that is operated by a cooperative association and which did not meet the shipping requirements of paragraph (b) of this section, shall be a pool plant in any month in which the volume of milk received at pool distributing plants directly from member producers or as a handler described in § 1096.9(c) is not less than 60 percent of the total pounds of member producer milk pooled during the month, except that on written request for nonpool status for any month, made to the market administrator prior to the beginning of such month, the plant shall be a nonpool plant for the month and for each of the succeeding 11 months in which it does not qualify as a pool plant pursuant to paragraph (b) of this section.

(d) The term "pool plant" shall not apply to the following plants:

- (1) A producer-handler plant;
- (2) A governmental agency plant;
- (3) A plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as route disposition in the market-

ing area regulated by the other order than in the Greater Louisiana marketing area and was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order.

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines route disposition, except filled milk, during the month in this marketing area is greater than route disposition in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order.

#### § 1096.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is not an other order plant, a producer-handler plant, or an exempt plant.

(e) "Exempt plant" means a plant operated by a governmental agency.

#### § 1096.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of producers it diverts pursuant to § 1096.13;

(c) Any cooperative association with respect to milk that it receives for its account from the farm of a producer for delivery to a pool plant of another handler in a tank truck owned and operated by, or under the control of, such cooperative association, unless both the cooperative association and the operator of the pool plant notify the market administrator prior to the time that such milk is delivered to the pool plant that the plant operator will be the handler for such milk and will purchase such milk on the basis of weights determined from its

measurement at the farm and butterfat tests determined from farm bulk tank samples.

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1096.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

#### § 1096.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a processing plant from which there is route disposition in the marketing area;

(b) Receives no fluid milk products from sources other than his own farm production and whose receipts of fluid milk products during the month from pool and other order plants do not exceed a daily average of 1,500 pounds;

(c) Disposes of no other source milk as Class I milk except by increasing the nonfat solids content of the fluid milk products received from his own farm production or pool plants; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk, and the management and operation of the processing plant are the personal enterprise and risk of such person.

#### § 1096.11 [Reserved]

#### § 1096.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which milk is received at a pool plant or accounted for by a cooperative association pursuant to § 1096.13(c), or is diverted pursuant to § 1096.13(b).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1096.44(a)(8)(iii) and the corresponding step of § 1096.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

#### § 1096.13 Producer milk.

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler described in § 1096.9(c);

(b) Diverted by the operator of a pool plant or by a cooperative association to



a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (d) of this section; or

(c) The difference between the quantity of milk received by a handler described in § 1096.9(c) from producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1096.52 and 1096.75, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered.

(d) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 6 days' production of such person as a producer is received at a pool plant;

(3) The total quantity of milk diverted by a cooperative association that is greater than 15 percent of the total quantity of producer milk received at all pool plants during the month from the cooperative association shall not be producer milk;

(4) The total quantity of milk diverted by the operator (other than a cooperative association) of a pool plant that is greater than 15 percent of the total quantity received at such plant during the month from producers who are not members of a cooperative association shall not be producer milk; and

(5) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk.

#### § 1096.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1096.40 (b) (1) from any source other than producers, handlers described in § 1096.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1096.40 (b) (1);

(c) Products (other than fluid milk products, products specified in § 1096.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1096.40 (b) (1)) for which the handler fails to establish a disposition.

#### § 1096.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in

fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

#### § 1096.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

#### § 1096.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

#### § 1096.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

#### HANDLER REPORTS

##### § 1096.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the

handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1096.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1096.40 (b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1096.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products, in such manner as the market administrator may prescribe.

##### § 1096.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1096.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1096.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

##### § 1096.32 Other reports.

(a) Each handler, who causes milk to be diverted for his account directly from a producer's farm to a nonpool plant, shall prior to such diversion report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the name of



the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1096.30 and 1096.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

#### CLASSIFICATION OF MILK

##### § 1096.40 Classes of utilization.

Except as provided in § 1096.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1096.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or fluid milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c) (1) (iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type

package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1096.15; and

(6) In shrinkage assigned pursuant to § 1096.41(a) to the receipts specified in § 1096.41(a) (2) and in shrinkage specified in § 1096.41(b) and (c).

##### § 1096.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1096.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk; and butterfat;

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1096.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from

its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity from which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1096.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

##### § 1096.42 Classification of transfers and diversions.

(a) *Transfer to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1096.44(a) (12) and the corresponding step of § 1096.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1096.44(a) (7) or the corresponding step of § 1096.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1096.44(a) (11) or (12) or the corresponding steps of § 1096.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in



such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1096.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt plant shall be classified:

(1) As Class I milk, if moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administra-

tor, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, an exempt plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d) (2) (i) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d) (2) (ii) through (viii) of this section:

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1096.30 for the month within which such transaction occurred; and

(b) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Except as provided in paragraph (d) (2) (ix) of this section, transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated

plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant.

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph; and

(ix) Transfers of bulk fluid milk products from a nonpool plant to a pool plant shall be classified as if they were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II or Class III utilization indicated: *Provided*, That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat covered by this subdivision being classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers according to the respective quantities of fluid milk products each handler transferred to the nonpool plant unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification.



#### § 1096.43 General classification rules.

In determining the classification of producer milk pursuant to § 1096.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1096.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1096.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1096.40, 1096.41, and 1096.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1096.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

#### § 1096.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1096.9(a) for each of his pool plants separately and of each handler described in § 1096.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to this utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1096.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1096.40(b) (1) that were received in packaged form

from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1096.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1096.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class I, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1096.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim

milk determined pursuant to paragraph (a) (8) (ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount;

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step, at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, milk from a handler described in § 1096.9(c), and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1096.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and



Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii), (iii), and (iv) of this section, such subtraction shall be prorated to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk;

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1096.45 (a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk remaining in each class at this allocation step at the pounds of skim milk in Class I shall be decreased by a like amount. In such case, handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1096.42 (a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of

skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a) (14) of this section and the corresponding step of paragraph (b) of this section.

#### § 1096.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1096.44 (a) (12) and the corresponding step of § 1096.44 (b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1096.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 11th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

#### CLASS PRICES

##### § 1096.50 Class prices.

Subject to the provisions of § 1096.52, the class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.47.



(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

#### § 1096.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

#### § 1096.52 Plant location adjustments for handlers.

(a) For milk received at a plant from producers or a handler described in § 1096.9(c) and which is classified as Class I milk without movement in bulk form to a pool distributing plant at which a higher Class I price applies, the price computed pursuant to § 1096.50(a) shall be adjusted by an amount determined pursuant to paragraph (a) (1) through (5) of this section for the location of such plant:

(1) For a plant located within one of the zones set forth in § 1096.2, the adjustment shall be as follows:

|               | Adjustment per hundredweight |
|---------------|------------------------------|
| Zone I.....   | No adjustment.               |
| Zone II.....  | Plus 19 cents.               |
| Zone III..... | Plus 38 cents.               |

(2) For a plant located in any of the following Louisiana parishes, the adjustment shall be as follows:

|              |              |
|--------------|--------------|
| Jefferson.   | St. Bernard. |
| Lafourche.   | St. Charles. |
| Orleans.     | Terrebonne.  |
| Piaquemines. |              |

(ii) Plus 19 cents.

|              |             |
|--------------|-------------|
| St. Tammany. | Washington. |
| Tangipahoa.  |             |

(3) For a plant located in any of the following Mississippi counties the adjustment shall be as follows:

|           |              |
|-----------|--------------|
| George.   | Jackson.     |
| Hancock.  | Pearl River. |
| Harrison. | Stone.       |

(ii) No adjustment.

|             |            |
|-------------|------------|
| Adams.      | Madison.   |
| Amite.      | Pike.      |
| Clatsborne. | Rankin.    |
| Copiah.     | Sharkey.   |
| Franklin.   | Simpson.   |
| Jefferson.  | Warren.    |
| Hinds.      | Wilkinson. |
| Issaquena.  | Yazoo.     |

(4) For a plant located in any of the following Texas counties, the adjustment shall be as follows:

(i) Plus 38 cents.

Chambers.  
Hardin.  
Harris.

(ii) Plus 19 cents.

Jasper.  
Newton.

(iii) No adjustment.

Angelina.  
Cass.  
Harrison.  
Gregg.  
Marion.  
Nacogdoches.

Jefferson.  
Liberty.  
Orange.

Polk.  
Tyler.

Panola.  
Rusk.  
Sabine.  
San Augustine.  
Shelby.  
Upshur.

(5) For a plant located outside of the areas described in paragraph (a) (1) through (4) of this section, and located more than 50 miles by the shortest hard-surfaced highway distance, as determined by the market administrator, from the nearer of the City Hall in Monroe or Shreveport, Louisiana, the adjustment shall be minus 1.5 cents per hundredweight for each 10 miles or fraction thereof.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee-plant subject to a location adjustment credit for the transferor-plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) From the pounds of skim milk remaining in Class I at the transferee plant after the computations are made pursuant to § 1096.44(a) (12), subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1096.9(c):

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts from other pool plants, first to transferor-plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plants pursuant to (b) (2) of this section by the difference in Class I prices applicable at the transferor-plant and transferee-plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b) (3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1096.42(a), in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class

I transfers received from such plant; and  
(5) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outline for skim milk in paragraph (b) (1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

#### § 1096.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

#### § 1096.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

#### UNIFORM PRICE

#### § 1096.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1096.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1096.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1096.44(a) (14) and the corresponding step of § 1096.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1096.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1096.44(a) (9) and the corresponding step of § 1096.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a) (7) (i) through (iv) and the corresponding step of § 1096.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the



Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(7)(v) and (vi) and the corresponding step of § 1096.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(11) and the corresponding step of § 1096.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

#### § 1096.61 Computation of uniform price.

For each month, the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1096.60 for all pool handlers who made reports prescribed in § 1096.30 for such month and who have made payments for the previous month pursuant to § 1096.71;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1096.75;

(c) Add an amount equal to not less than one-half of the unobligated balance on hand in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1096.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for producer milk.

#### § 1096.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

#### PAYMENTS FOR MILK

#### § 1096.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1096.71, 1096.76, and 1096.77 and out of which

he shall make payments to handlers pursuant to §§ 1096.72 and 1096.77: *Provided*, That payments due to any handler shall be offset by any payment due from such handler.

#### § 1096.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1096.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1096.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1096.60(f).

(b) On or before the 25th day after the end of the month each person who operated another order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(3) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(4) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(5) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(6) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(7) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

#### § 1096.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1096.71(a)(2) exceeds the amount computed pursuant to § 1096.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

#### § 1096.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make

payment to each producer for milk received from such producer as follows:

(a) On or before the 28th day of each month, for milk received during the first 15 days of the month at not less than the Class III price for the preceding month;

(b) On or before the 15th day after the end of each month for milk received during the month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1096.61, subject to the butterfat differentials and location adjustments computed pursuant to §§ 1096.74 and 1096.75, respectively; and

(1) Less payment made pursuant to paragraph (a) of this section;

(2) Less deductions for marketing services pursuant to § 1096.86;

(3) Plus or minus adjustments pursuant to § 1096.77 for errors in previous payments made to such producers; and

(4) Less proper deductions authorized by such producer;

(c) On or before the 25th and 13th days of each month, in lieu of the payment pursuant to paragraphs (a) and (b) of this section, respectively, each handler shall pay to a cooperative association which so requests, with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers:

(d) In making the payments to producers pursuant to paragraph (b) or (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer;

(e) Each handler shall make payment to a cooperative association for each hundredweight of milk received from such association in its capacity as a handler pursuant to § 1096.9(a) as follows:

(1) On or before the 25th day of each month for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the applicable class prices adjusted pursuant to § 1096.74, (i) less the amounts paid pursuant to paragraph (e)(1) of this section, and (ii) plus or minus adjustments pursuant to § 1096.77 for errors in previous payments



made to such cooperative association; and

(f) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler described in § 1096.9(c), including the milk of producers who are not members of such association and who the market administrator determines have authorized such cooperative association to collect for their milk as follows:

(1) On or before the 25th day of each month for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month at not less than the uniform price adjusted pursuant to §§ 1096.74 and 1096.75, less payment made pursuant to paragraph (f) (1) of this section.

#### § 1096.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

#### § 1096.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk shall be adjusted according to the location of the plant at which the milk was physically received, at the rates set forth in § 1096.52.

(b) For purposes of computations pursuant to §§ 1096.71 and 1096.72 the uniform price shall be adjusted at the rates set forth in § 1096.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

#### § 1096.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1096.30(b) and 1096.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant.

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not another order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under an order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class II price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1096.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant.

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1096.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not

to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1096.60 for such handler shall include, in lieu of the value of other source milk specified in § 1096.60(f) less the value of such other source milk specified in § 1096.71(a) (2) (ii), a value of milk determined pursuant to § 1096.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1096.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1096.30 (b) and 1096.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1096.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b) (1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1096.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1096.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

#### § 1096.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, discloses errors resulting in moneys due (a) the market administrator from such handler; (b) such handler from the market adminis-



trator; or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

#### ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

##### § 1096.85 Assessment for order administration.

As his pro rata share of the expense of administration of this part each handler, except a producer-handler, shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, as follows:

(a) Each pool handler with respect to (1) all receipts of producer milk including such handler's own production, and (2) other source milk allocated to Class I pursuant to § 1096.44(a) (7) and (11) and the corresponding steps of § 1096.44 (b), except such other source milk that is excluded from the computations pursuant to § 1096.60 (d) and (f);

(b) Each cooperative association on producer milk diverted to a nonpool plant for the account of such association or received by such association as a handler described in § 1096.9(c); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1096.76(a) (2).

##### § 1096.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers other than himself pursuant to § 1096.73 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to verify the weights, samples and tests of milk received from such producers during the month. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the service set forth in paragraph (a) of this section and for whom a cooperative association is authorized to receive payment for marketing services as set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payment to be made to such producers as may be authorized by the membership agreement or marketing contract between such coopera-

tive association and such producers and shall pay such deductions to the cooperative association entitled to receive it, on or before the 15th day after the end of the month during which such milk was received. Such deductions shall be accompanied by a statement showing the quantity of milk for which such deduction was computed for each producer. In lieu of such statement, the handler may request the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 1096.31.

Signed at Washington, D.C., on: October 22, 1975.

DONALD E. WILKINSON,  
Administrator.

[FR Doc. 75-28826 Filed 10-24-75; 8:45 am]

#### [7 CFR Part 1098]

[Docket No. AO-184-A40]

#### MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

##### Hearing on Proposed Amendments To Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Hilton Airport Inn, Nashville Municipal Airport, Nashville, Tennessee, beginning at 9:30 a.m., on November 11, 1975, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Nashville, Tennessee, marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairywomen, Inc. and National Farmers' Organization.

##### Proposal No. 1.

Revise paragraph (a) of § 1098.50 to read as follows:

##### § 1098.50 Class prices.

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.05.

##### Proposed by Dairywomen, Inc. Proposal No. 2.

Add a new paragraph (d) as set forth below and revise paragraph (a) of § 1098.52, to read as follows:

##### § 1098.52 Plant location adjustments for handlers.

(a) For milk received from producers at a plant located at any point which is

50 miles or more by the shortest hard-surfaced highway distance as determined by the market administrator, from the State Capitol at Nashville, Tennessee, or the City Hall in Pulaski or McMinnville, Tennessee, and classified as Class I milk subject to the limitations pursuant to paragraph (b) of this Section, the price computed pursuant to § 1098.50(a) shall be reduced by 10.0 cents, plus 2.0 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles; and

(d) The market administrator shall publicly announce the location adjustment of each plant of each handler as determined pursuant to paragraph (a) of this Section. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location adjustment will apply.

##### Proposal No. 3

Revise (b) (1) of § 1098.13, to read as follows:

##### § 1098.13 Producer milk.

(b) (1) Such milk shall be deemed to have been received by the diverting handler at the plant from which diverted, if diverted, to a nonpool plant located not more than 125 miles from the City Hall in Nashville, Tennessee. Milk diverted to a nonpool plant located more than 125 miles from Nashville, Tennessee, shall be deemed to have been received by the diverting handler at the location of the plant to which diverted.

##### Proposed by National Farmers' Organization:

##### Proposal No. 4

Revise § 1098.50(a) as follows:

##### § 1098.50 Class prices.

"(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$2.05."

##### Proposal No. 5

Revise § 1098.13(b) (1) as follows:

##### § 1098.13 Producer milk.

(b) (1) (i) Such milk diverted to a nonpool plant located within 150 miles by shortest hard-surfaced highway distance from the State Capitol in Nashville, Tennessee, shall be accounted for as received by the diverting handler at the location of the pool plant from which diverted.

(ii) Such milk diverted to a nonpool plant located more than 150 miles by shortest hard-surfaced highway distance from the State Capitol in Nashville, Tennessee, shall be accounted for as received by the diverting handler at the location of the nonpool plant to which diverted.

##### Proposed by the Dairy Division, Agricultural Marketing Service:

##### Proposal No. 6

Make such changes as may be necessary to make the entire marketing agree-



ment and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Suite 251, Theatre Office Building, 100 Oaks Shopping Center, Nashville, Tennessee (P.O. Box 40765, Nashville, Tennessee, 37204), or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on: October 22, 1975.

DONALD E. WILKINSON,  
Administrator.

[FR Doc.75-28824 Filed 10-24-75;8:45 am]

# Animal and Plant Health Inspection Service

## [ 9 CFR Part 78 ]

### SWINE BRUCELLOSIS REGULATIONS

#### Proposed Rulemaking

##### Correction

In FR. Doc. 75-28041, appearing at page 48697, in the issue for Friday, October 17, 1975, change the tenth line of 78.35 (c) to read as follows: "or as may be authorized by the Deputy Adminis-".

## [ 9 CFR Parts 317 and 381 ]

### MEAT AND POULTRY JAR CLOSURE REGULATIONS

#### Extending the Effective Date

**Purpose:** The purpose of this document is to extend the effective date of the meat and poultry regulations on jar closures from December 10, 1975, to December 10, 1977.

**Statement of Considerations:** On June 10, 1974, the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, published in the FEDERAL REGISTER (39 FR 20369), a new section 317.19 to the meat inspection regulations, and a new section 381.143 to the poultry products inspection regulations, to require the elimination of annular spaces between lids and vacuum-packed glass jars or to require such spaces to be sealed. The purpose of the regulations was to correct defects which permitted, under certain circumstances, the lodging of filth and insect fragments between the lid and lip of the jars.

The type of package initially involved in this problem was baby food jars. Research and development efforts by the affected industries have produced a new type of closure which eliminates the problem for the bulk of such production. Such closures are now used on about 97 percent of all baby food packed in glass jars. Technical problems presently prevent the new type of closures from being used for the balance.

To solve those difficulties and to deal with problems affecting the packaging of other meat and poultry products in vacuum-packed glass jars, additional time is needed for research and development before industry can fully comply.

Need has also been shown for additional time beyond the December 10, 1975, effective date to obtain and install the machinery and materials necessary for the new type of closures. To provide for orderly implementation of the regulations and to assure a continuing supply of products customarily packed in glass jars to consumers, the effective date of the above cited regulation is postponed to December 10, 1977.

It does not appear that the publication of a notice of proposed rulemaking or other public participation in connection with this action would make additional relevant information available to this Department. Therefore, under the administrative procedure provisions, 5 U.S.C. 553, it is found upon good cause that such notice or public participation is impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this action effective less than 30 days after publication in the FEDERAL REGISTER. Therefore, this action shall become effective on November 1, 1975.

Done at Washington, D.C. on:

F. J. MULHERN,  
Administrator, Animal and Plant  
Health Inspection Service.

[FR Doc.75-29030 Filed 10-24-75;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 75-SO-137]

### DESIGNATION OF TRANSITION AREA

#### Notice of Proposed Rulemaking

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Sturgis, Ky., transition area.

Interested persons may submit such written data, views or arguments as they desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P. O. Box 20636, Atlanta, Ga. 30320. All communications received on or before November 28, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Sturgis transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Sturgis Municipal Airport (latitude 37°32'30" N., longitude 87°56'51" W.).

The proposed designation is required to provide controlled airspace protection for IFR operations at Sturgis Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing the Tradewater (Private) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on October 16, 1975.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc.75-28829 Filed 10-24-75;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### [ 40 CFR Part 180 ]

[FRL 449-1; PP1E1046/P9]

### TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

#### Proposed Tolerance for the Pesticide Chemical 2,4-D

The Department of the Army, Office of the Chief of Engineers (DAEN-CWO-F), Washington, D.C. 20314, has submitted a pesticide petition (PP1E1046) to the Environmental Protection Agency. This petition requested that the Administrator propose, pursuant to Section 408(e) of the Federal Food, Drug, and Cosmetic Act, the establishment of a tolerance for residues of the herbicide and plant regulator 2,4-dichlorophenoxyacetic acid (2,4-D) in or on the raw agricultural commodities fish and shell fish at 1.0 part per million (ppm). Residues of 2,4-D would result from the application of its dimethylamine salt in water hyacinth control programs conducted by the Corps of Engineers or other Federal, State, or local public agencies in ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers and streams that are quiescent or slow moving. (The Department of the Army has also filed a petition for the establishment of a food additive regulation permitting the use of 2,4-D in potable water. Notice of this filing also appears in today's FEDERAL REGISTER.)

The pesticide 2,4-D is not registered with the Agency under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973), for use against water hyacinths. However, the Corps of Engineers has been granted exemptions from such registration requirements pursuant to Section 18 of FIFRA, as amended, to use 2,4-D to control water hyacinths which impede water flow, reduce recreational use, and provide a habitat for large populations of insects



which could pose a hazard to human health. (See FEDERAL REGISTER notices of March 4, 1974 (39 FR 8183), May 30, 1974 (39 FR 18806), October 11, 1974 (39 FR 36637), November 1, 1974 (39 FR 38717), December 9, 1974 (39 FR 42942), and July 10, 1975 (40 FR 29123).)

The Section 18 exemption provision of FIFRA is designed to provide solutions to emergency situations rather than recurring problems. Accordingly, the July 10, 1975, FR document (40 FR 29123) announcing the Agency's decision to grant the Corps most recent request for exemption provided that: "additional specific exemption requests by the Corps of Engineers for use of 2,4-D in moving water beyond calendar year 1975 will not be granted, since, in our estimation, there has been adequate time for the Corps to gather the necessary data to register 2,4-D for this use." Data compiled by the Corps during the course of control programs carried out under the provisions of section 18 have been submitted in support of this petition for tolerance.

The data submitted in the petition and all other relevant material have been evaluated, and it is concluded that the tolerance of 1.0 ppm for fish and shellfish established by amending § 180.142 will protect the public health. In addition, the Agency has concluded that a tolerance should also be established for residues of 2,4-D which may occur in or on raw agricultural commodities irrigated or otherwise in contact with treated water. A somewhat similar problem was addressed in the past when a tolerance was established for residues of 2,4-D in a number of agricultural commodities, resulting from the application of its dimethylamine salt to irrigation ditch banks [40 CFR 180.142(c)]. Based on available data and other pertinent information, it has been concluded that a tolerance of 1.0 ppm should be established for those crops and commodity crop groupings which are listed in § 180.142(c) (citrus; cucurbits; forage grasses; forage legumes; fruiting vegetables; grain crops; leafy vegetables; small fruits; and stone fruits; and the individual raw agricultural commodities avocados, cottonseed, hops, and strawberries). Where tolerances are established at higher levels from other uses of the dimethylene salt of 2,4-D on crops included within these commodity groups, the higher tolerances also will apply to residues from the aquatic uses cited above.

For the above reasons, it is proposed that tolerances be established as set forth below. Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before November 28, 1975, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed

regulation to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW, Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before November 28, 1975, and should bear a notation indicating the subject and the petition document control number PPIE1046/P9. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 22, 1975.

MARTIN H. ROGOFF,  
Acting Director,  
Registration Division.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(c)).)

It is proposed that Part 180, Subpart C, § 180.142, be amended by adding the new paragraph (f) to read as follows.

§ 180.142 2,4-D; tolerances for residues.

(f) Tolerances are established for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) from application of its dimethylamine salt for water hyacinth control in ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers and streams that are quiescent or slow moving in programs conducted by the Corps of Engineers or other Federal, State, or local public agencies at 1.0 part per million (ppm) in the crops and crop groupings listed in paragraph (c) above and at 1.0 ppm in or on the raw agricultural commodities fish and shellfish. Where tolerances are established at higher levels from other uses of the dimethylamine salt of 2,4-D on crops included within these commodity groups, the higher tolerances also apply to residues from the aquatic uses cited above.

[FR Doc. 75-29047 Filed 10-24-75; 8:45 am]

## ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[10 CFR Part 790]

### GEOHERMAL ENERGY RESEARCH DE- VELOPMENT, DEMONSTRATION AND PRODUCTION

#### Federal Guaranties on Loans

This notice offers interested parties an opportunity to comment on a proposed regulation concerned with enabling lenders to obtain Federal guaranties on loans to qualified borrowers for purposes related to the commercial development of practical means to produce electric power and other forms of useful energy from geothermal resources in an environmentally acceptable manner. This regulation is issued pursuant to the provisions of Title II of the Geothermal Energy Research, Development and Demonstration Act of 1974 (P.L. 93-410), and by authority contained in Section

105(a) of the Energy Reorganization Act of 1974 (Pub. L. 93-438) and Executive Order 11834 dated January 15, 1975.

The proposed regulation would provide policies and procedures by which lenders may, in addition to qualified borrowers, participate in accelerating the commercial utilization of geothermal energy by enabling the Administrator of the U.S. Energy Research and Development Administration (ERDA) to minimize financial risk usually associated with the introduction of new geothermal resources technology.

Generally, the proposed regulation provides priorities and criteria which ERDA will apply in determinations regarding whether a Federal guaranty will be approved. It provides illustrations of information to be developed by the borrower and the lender and supplied to ERDA, including especially a detailed description of the project planned to be undertaken by the borrower and an affirmation by the lender supporting the necessity for a Federal guaranty. The regulation, in addition, contains illustrations of costs which the borrower can include, when applicable, in arriving at the total project cost. Illustrations of costs not allowed to be included in project costs are also provided.

Legislative matters now being considered by the Congress affect certain provisions in this proposed regulation. Upon enactment of such legislation the affected provisions may either be revised and incorporated in a final regulation or later published in the FEDERAL REGISTER as proposed provisions for which written comments by interested persons will be sought. Interested persons should submit their written comments concerning this proposed regulation to the Director, Division of Geothermal Energy, U.S. Energy Research and Development Administration, Washington, D.C. 20545, on or before December 12, 1975.

Dated at Washington, D.C., this 22nd day of Oct., 1975.

JOHN M. TEEM,  
Assistant Administrator for  
Solar, Geothermal and Ad-  
vanced Energy Systems.

The proposed regulation is as follows:

### PART 790—FEDERAL GUARANTEES ON LOANS TO CONDUCT GEOHERMAL EN- ERGY RESEARCH DEVELOPMENT, DEM- ONSTRATION AND PRODUCTION

#### Subpart A—General Provisions

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| 790.4  | Eligible loans and priorities                |
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- 790.20 Filing
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- 790.30 Loan servicing by lender
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- 790.34 Loan disbursements by lender
- 790.35 Satisfactory documentary evidence
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- 790.40 Assignment and incontestability
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- 790.43 Other federal assistance
- 790.44 Patent and proprietary rights
- 790.45 Closing
- 790.46 Periodic reports

## Appendix A—Addresses of Managers of ERDA Operations Offices.

**AUTHORITY:** Sec. 105(a), Energy Reorganization Act of 1974, Public Law 93-438; Title II, Geothermal Energy Research, Development, and Demonstration Act of 1974, Public Law 93-410; Executive Order 11834 dated January 15, 1975.

## Subpart A—General Provisions

## § 790.1 Purpose.

The purpose of this regulation is to set forth policies and procedures under which lenders may obtain a Federal guaranty on loans related to the commercial development of practical means to produce, with environmentally acceptable processes, useful energy from geothermal resources.

## § 790.2 Objectives.

The objectives of the Federal geothermal loan guaranty program are: (1) To encourage and assist the private sector to accelerate development of geothermal resources by enabling the Administrator of the Energy Research and Development Administration (ERDA) in the exercise of reasonable judgment to minimize a lender's financial risk that is associated with the introduction of new geothermal resources and technology; and, (2) to develop normal borrower-lender relationships which will in time encourage the flow of credit without the need for Federal assistance.

## § 790.3 Effective date.

This regulation is not effective at this time. Applications for guaranties will not be processed until a final regulation appears in the FEDERAL REGISTER setting forth an effective date for the filing of applications.

## § 790.4 Eligible loans and priorities.

(a) If the criteria specified in § 790.6 below are satisfied, the Administrator may enter into commitments to guaranty lenders against the loss of principal and accrued interest on loans made by such lenders to qualified borrowers, as defined

in § 790.5. Subject to the application of priorities for guaranties as set forth in (b) and (c) below, and criteria set forth in § 790.6 such commitments can be entered into only for the purposes of:

(1) Determination and evaluation of the commercial potential of geothermal resources;

(2) Research and development with respect to extraction and utilization technologies, including but not limited to the mitigation of adverse environmental effects;

(3) Acquisition of rights in geothermal resources; or

(4) Development, construction, and operation of equipment or facilities for the demonstration or commercial production of energy (e.g., electric power, industrial or agricultural processes, or space heating) from geothermal resources.

(b) In complying with the objectives of the Federal geothermal loan guaranty program, the Administrator will give first priority consideration to those projects which will most quickly result in the production of useful energy from geothermal resources, as defined in § 790.5(a). Second priority consideration will be given to those projects designed to utilize new technological advances or engage in the production of advanced technology components. Third priority consideration will be given to projects that will exploit the potential of new geothermal resource areas. Projects that propose geological and geophysical exploration, or the acquisition of land or leases will be regarded by the Administrator as having a lower priority. Other types of projects will be given a priority ranking as determined by the Administrator. Within each category of priority as described herein, the Administrator shall give additional priority consideration to those guaranty applications in which the lender is providing a substantive portion of the loan for which a guaranty is not requested.

(c) A project which meets a lender's standard for a loan without a Federal guaranty will be regarded by the Administrator as not eligible for further consideration under this regulation. In addition, a project which is to be financed through tax exempt loans to any public agency, or a project which is devoted exclusively to purposes that consume electric power or non-electric energy, or is devoted exclusively to the extraction or production of geothermal byproducts as defined in § 790.5(b), or is devoted exclusively to the desalination of geothermal brines will be regarded by the Administrator as not eligible for a Federal loan guaranty under this regulation. Notwithstanding the provisions of § 790.43, a loan to enable a borrower to carry out a project that is cost-shared with ERDA will not be eligible for a guaranty under this regulation.

## § 790.5 Definitions.

For purposes of this regulation:

(a) "Geothermal resources" means (1) all products of geothermal processes, embracing indigenous steam, geopressured fluids, hot water, and brines, (2) steam

and other gases, hot water and hot brines, resulting from water, gas, or other fluids artificially introduced into geothermal formations, and (3) any byproduct derived from them;

(b) "Byproduct" means any mineral or minerals which are found in solution or in association with geothermal resources and which have a value of less than 75 percent of the value of the geothermal steam and associated geothermal resources or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(c) "Administrator" means the Administrator of the U.S. Energy Research and Development Administration (ERDA) or a representative authorized by the Administrator;

(d) "Manager" means the Manager of an ERDA Operations Office as listed in Appendix A or a representative authorized by the Manager;

(e) "Lender" includes, but is not limited to, commercial banks, savings and loan institutions, insurance companies, factoring companies, investment banking organizations, venture capital investment companies, institutional investors, trusts, individuals, and entities designated as trustees acting on behalf of bondholders;

(f) "Qualified borrower" means any public or private agency, institution, joint venture, association, cooperative, partnership, corporation, individual, political subdivision, or other legal entity having authority to enter into a loan agreement. Examples of borrowers include, but are not limited to, lease holders, landowners, electric utilities, reservoir developers, drillers, suppliers, component and equipment manufacturers, research and development firms, engineers, patent holders, and licensees;

(g) A "loan" is an obligation involving a borrower and a lender, evidenced in writing by one or more notes, making available to the borrower money at a specified rate of interest for a limited period of time. The loan instrument may be negotiable, but may not be capable of conversion into an equity relationship with the borrower; and

(h) "Project" means a group of inter-related tasks to be undertaken by the borrower which when completed will result in an identifiable product, system, major component or study for which a market potentially exists. Examples of a project include, but are not limited to, test and production well drilling, power plant construction, equipment manufacturing, research and development, construction of transmission lines from a geothermal power plant, and other ventures to extract geothermal heat to serve as an energy source for nonelectric applications.

In addition to meeting the requirements for eligibility and priority set forth in § 790.4, guaranties shall be made only if the following conditions are met as determined by the Administrator:

(a) The application is signed by an authorized official of the lender and is



accompanied by a statement signed by the borrower evidencing knowledge of the application and intent to comply with this regulation;

(b) The loan is to be made to a qualified borrower;

(c) Except as provided in § 790.43, the loan amount to be guaranteed does not exceed 75 percent of the estimated aggregate cost of the project, however; there is no prohibition against the guaranty being equal to 100 percent of the loan to be made by the lender;

(d) The lender affirms either that the loan would otherwise not be made to the borrower or that the prevailing prime rate of interest charged to preferred customers would not be made available without a Federal loan guaranty;

(e) There is satisfactory evidence demonstrating that the lender has a management organization competent to administer the terms and conditions of a loan guaranteed under this regulation;

(f) When the maximum permissible guaranty is requested as provided in (c) above, the lender must affirm that its confidence in geothermal technology and utilization as related to the project is insufficient, and therefore until the lender gains experience with new geothermal technology and resources, the lender is unwilling to approve a loan at less than the maximum permissible guaranty;

(g) The loan bears interest at a rate not to exceed an annual percent on the principal obligation outstanding as the Administrator determines, in consultation with the Secretary of the Treasury, to be reasonable, taking into account the range of interest rates and lending practices prevailing in the private sector for similar loans and risks by the United States. However, it is expected that the borrower and lender will negotiate a mutually acceptable interest rate that recognizes the benefits to the lender from a Federal guaranty;

(h) The terms of such loans require full repayment over a period of up to thirty years, or the expected useful life of any physical asset to be financed by such loan, whichever is less;

(i) The amount of the loan together with other funds available to the borrower will be sufficient to carry out the project;

(j) There is reasonable assurance of payment of interest and repayment of the guaranteed portion of the loan by the qualified borrower, such as, evidence that there exists or will exist a market for the project's product or results;

(k) The amount of the guaranty for a project does not exceed \$25,000,000;

(l) The total dollar amount of guaranties made under this regulation for any combination of outstanding loans to any single qualified borrower does not exceed \$50,000,000;

(m) The project is to be performed in the United States, its territories or possessions, or for the benefit of facilities owned or leased by the United States from foreign governments;

(n) The project is technically feasible and uses environmentally acceptable processes;

(o) The project is to be initiated and completed in a timely and efficient manner;

(p) When necessary to carry out the project, there is a sufficiency of encouraging geophysical, geological, hydrological and geochemical data;

(q) The borrower agrees to make available on a timely basis any technical and economic information as specified in the guaranty agreement, and subject to provisions in §§ 790.33 and 790.44(b), further agrees to its use for public dissemination purposes;

(r) There is satisfactory evidence of the borrower's interest in geothermal resources;

(s) There is satisfactory evidence that the borrower is capable of completing the project in an acceptable manner;

(t) An environmental statement or negative declaration has been prepared and issued by the appropriate Federal agency, in compliance with the National Environmental Policy Act of 1969;

(u) The project, whether conducted on public or private land, will be carried out with full regard to the use of environmentally acceptable processes in such a manner as to mitigate adverse environmental impact to the maximum extent practicable;

(v) The environmental risks of the project have been evaluated in accordance with § 790.23;

(w) The borrower and lender agree that the terms and conditions set forth in the loan agreement shall be acceptable to the Administrator and be part of the guaranty agreement;

(x) The borrower and non-guaranteed lender agree that the terms and conditions set forth in that loan agreement, including the provision that a loan guaranteed under this regulation shall not be subordinated to any other long term financing, shall not be effective until approved by the Administrator; and

(y) The borrower and lender agree to such other terms and conditions as the Administrator deems necessary and appropriate.

#### § 790.7 Interest assistance.

With respect to any loan guaranteed pursuant to this regulation the Administrator may enter into an agreement to pay the lender for and on behalf of the borrower the interest charges which become due and payable on the unpaid balance of any such loan if the Administrator finds:

(a) That the borrower is unable to meet interest charges, and that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such interest will be less than that which would result in the event of a default;

(b) The amount of such interest charges which the Administrator is authorized to pay is no greater than the

amount of interest which the borrower is obligated to pay under the loan agreement; and

(c) The borrower agrees to repayment of interest charges paid by the Federal Government (including the payment of interest on such charges at an annual rate to be set by the Administrator in consultation with the Secretary of the Treasury).

#### § 790.8 Default payment.

In the event of any default by a borrower in making a payment in accordance with the loan agreement, and except as provided in § 790.7, the Administrator will, as provided in § 790.37, make payment of principal and accrued interest in accordance with the guaranty. Thereupon, the Attorney General of the United States shall take such action as may be appropriate to recover the amounts of such payments (including any payment of interest) from such assets of the defaulting borrower (including patent and proprietary rights as provided in § 790.44) as are associated with the project, or from any other security included in the terms of the guaranty. Any recovery achieved by the Attorney General which exceeds the amount paid to the lender in accordance with the guaranty agreement shall be available to other claimants in accordance with applicable law.

#### § 790.9 Period of guaranties and interest assistance.

No loan guaranty agreements will be made or interest assistance contracts entered into after September 3, 1984. Guaranty agreements in effect at that time will continue until the term of the loan is completed or until the guaranteed portion of the loan is repaid by the borrower, whichever occurs first. Interest assistance agreements in effect on September 3, 1984, will remain in effect thereafter until the agreement term is completed or terminated.

#### § 790.10 Information for governors.

The Administrator will periodically meet with Governors of directly affected States, regional associations of Governors, or heads of State agencies and commissions responsible for energy or environmental matters for the purposes of:

(a) Discussing the status of projects guaranteed under this regulation;

(b) Identifying means to remove or mitigate legal and regulatory barriers to the accelerated use of geothermal resources; and

(c) Evaluating plans to encourage growth in the geothermal industry.

#### Subpart B—Applications

#### § 790.20 Filing.

(a) An application for a loan guaranty made under this regulation must be submitted by the lender to the Manager who is responsible for processing the application. Instructions and information regarding the filing of applications may be obtained from any ERDA Operations



Office Manager. (Appendix A contains addresses.)

(b) Prior to receipt of a guaranty application, the Manager is authorized to conduct or arrange for preliminary discussions with prospective lenders or borrowers wishing to obtain advice regarding eligibility for a loan guaranty and compliance with supporting information requirements as illustrated in § 790.21. During the preliminary discussion the lender will make available to the Manager the lender's written assessment of all aspects of the borrower's loan application in sufficient detail as would be done by a prudent lender considering a loan without a guaranty.

(c) Guaranty applications may be submitted to the Manager for multi-phased projects in which the borrower plans to utilize milestone events as a basis for assessing the desirability of proceeding to a subsequent phase. A firm guaranty commitment, however, will extend only to each phase in sequence as requested by the lender to the Manager and approved in writing by the Administrator.

(d) Guaranty applications failing to meet criteria, eligibility or priorities as provided in this regulation will be returned to the lender accompanied by a written statement setting forth the basis for non-approval of the application.

#### § 790.21 Supporting information.

(a) The lender and borrower shall provide information in support of the application as prescribed by the Manager who is responsible for processing the application. The following items illustrate the range of information which may be needed, dependent upon the type, complexity and cost of the project:

(1) Full description of the scope, nature, extent and location of the proposed project;

(2) An affirmation by the lender supporting the necessity for a Federal loan guaranty;

(3) Evidence of the borrower's previous and current interest in exploiting the potential of geothermal resources;

(4) Evidence supporting the borrower's ability to complete the project;

(5) Interest rate to be charged by the lender that provides preferential treatment to the borrower due to the benefits accruing to the lender from a Federal loan guaranty;

(6) Period and amount of the loan and the percent of the project cost to be guaranteed;

(7) A detailed budget-type breakdown of both the estimated total cost of the project and the amount to be borrowed;

(8) Evidence showing that the amount of the loan together with equity or other financing will be sufficient to carry out the project;

(9) The borrower's plan to pay interest charges and repay the loan, including assumptions regarding marketability of the project's results or product;

(10) The total dollar amount of outstanding loans taken by the borrower from all sources that are guaranteed under the provisions of this regulation;

(11) Where relevant to the purpose of the loan guaranty, a copy of the borrower's title or lease agreement to the property, supported by title opinion or other locally acceptable evidence of the borrower's interest, on which the project is to be carried out;

(12) Subject to § 790.44(b), technical information and reports, geophysical data, financial statements, milestone schedules, and maps and charts;

(13) Information covering the management experience of each officer or key person in the borrower's organization who is to be associated with the project;

(14) A description of the borrower's management concept and business plan or plan of operations to be employed in carrying out the project;

(15) A description of the project's technical and economic feasibility;

(16) A description of the intended sources and amount of capital and its form (equity, loans from principals, loans from the lender, outside financing, or factoring) together with evidence of firm commitments from these sources and a copy of each such agreement, and evidence of the financial ability of each source to honor its commitment;

(17) A copy of the loan agreement to be executed by the lender and borrower;

(18) A listing of assets associated or to be associated with the project, and any other security to be included in the loan agreement;

(19) A description of other Federal financial assistance (e.g., direct loans, guaranteed loans, grants, contracts) available or expected to be made available to the borrower in connection with the project;

(20) A description of the potential environmental impact stemming from the project and plans to mitigate or remove adverse environmental effects, including, but not limited to a description of the potential effect the project will have on surface and subsurface water supplies and regional air quality;

(21) Copies of all applications when filed, and approvals when issued by Federal, State and local government agencies, for permits and authorizations to conduct operations associated with the project;

(22) A description of the borrower's organization and a copy of the business certificate, partnership agreement or corporate charter, by-laws, and appropriate authorizing resolutions;

(23) Copies of investigations obtained by the lender from credit bureaus, references and bank inquiries, and professional associations;

(24) Written assurance from guaranteed and non-guaranteed lenders that the loan amounts as well as terms and conditions imposed by such lenders will not be altered in any significant respect without approval of the Administrator;

(25) A description of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and employees of the borrower that are or will be directly associated with the project; and

(26) Evidence that the borrower has consulted with the appropriate agency of any affected State regarding the proposed project.

(b) In addition to supporting information illustrated in (a) above, the Manager may independently obtain or may require the lender to include with the application the filing of information regarding the lender as deemed necessary, including but not limited to:

(1) Description of the lender's organization and a copy of the business certificate, partnership agreement or corporate charter, by-laws, and appropriate authorizing resolutions;

(2) Copies of investigations obtained from credit bureaus, reference and bank inquiries, and professional associations;

(3) Descriptions covering the management experience of each officer or key person in the lender's organization who is or will be associated with the project;

(4) A description of the management concept to be employed by the lender in surveillance of the project; and

(5) When appropriate to the project, evidence of the lender's experience in the surveillance of complex technological projects.

(c) The guaranty application and information shall be submitted to the Manager, who shall conduct a review to assure compliance with this regulation and who may require the submission of additional information. To carry out this review, the Administrator or the Manager may utilize the services of other Federal agencies, National Laboratories or private consultants.

#### § 790.22 Project cost illustrations.

(a) The cost elements set forth in (b) and (c), below are only for the purpose of illustrating the manner by which the total cost of the project can be determined. It is expected that project costs will be accumulated in accordance with generally accepted accounting principles.

(b) Except as set forth in (c) below, reasonable and customary expenses paid by the borrower are generally permitted in computing the total project cost. These expenses include, but are not limited to the following:

(1) Employees' and director's salaries and wages, consultant fees and other outside assistance;

(2) Land purchase or lease payments, including reasonable real estate commissions;

(3) Engineering fees, surveys, plats, title insurance, recording fees and legal fees incurred in connection with land acquisition;

(4) Site improvements, including access roads and fencing;

(5) Drilling of test, production and re-injection wells;

(6) Buildings, transmission lines, power plant equipment, and machinery;

(7) Taxes paid to Federal, State and local government agencies;

(8) Insurance and bonds of all types;

(9) Engineering, architectural and legal fees paid in connection with drilling, machinery selection, design, acquisition and installation;



(10) Research and development necessary to complete the project;

(11) Professional services and fees necessary to obtain licenses and permits and to prepare environmental reports and data;

(12) Interest costs charged by the lender;

(13) Reasonable interest payments to other lenders;

(14) Costs incurred by the borrower prior to approval of the guaranty agreement that are directly in connection with the project;

(15) Technical and socio-economic information dissemination costs;

(16) Costs to provide safety and environmental protection equipment, facilities and services;

(17) Travel and transportation costs to and from project site;

(18) Bond financing costs and trustee fees;

(19) Fees for royalties and licenses;

(20) Costs associated with acquiring geophysical and other technical data;

(21) Financial and legal services costs;

(22) Costs to comply with terms and conditions specified in the guaranty agreement or required by regulations and issuances by Federal, State and local government agencies;

(23) Reasonable contingency reserve; and

(24) Other necessary and reasonable costs.

(c) Expenses not allowed in computing the total project cost are:

(1) Company organizational expenses;

(2) Company overhead items, such as entertainment, advertising, and parent corporation general and administrative expenses and other parent corporation assessments;

(3) Dividends and profit sharing to stockholders, employees and officers;

(4) Goodwill, franchises, or trade or brand name costs;

(5) Salaries paid to officers, directors and stockholders which are excessive;

(6) Except as provided in § 790.31, fees and commissions charged to the borrower for obtaining loans and Federal assistance;

(7) Loan commitment fees charged by lenders;

(8) Expenses not paid or incurred by the borrower;

(9) Normal operating expenses incurred after the project earns income; and

(10) Other costs that are excessive or are not directly required to carry out the project.

(d) Independently, or at the direction of the Administrator, the Manager may cause to be performed a review of any or all cost elements included by the borrower in the total project cost. The borrower shall make available records and other data necessary to permit the Manager to carry out such review. In carrying out this responsibility, the Manager may utilize ERDA staff, employees of other Federal agencies, or private firms, or may direct the borrower or the lender

to submit a review performed by an independent certified public accountant.

(e) When costs incurred prior to the approval of the guaranty agreement, as provided in § 790.22(b)(14), are included in the total project cost in an amount determined by the Manager or the Administrator to be a significant percentage of the project cost, the borrower will make available to auditors selected by the Manager, financial and other records necessary to complete an audit of such costs.

#### § 790.23 Environmental considerations.

(a) With respect to each project being considered actively for a loan guaranty, the Manager shall evaluate fully the potential effect of all phases of the project on the total environment, including but not limited to fish and other aquatic resources, wildlife habitat and populations, aesthetics, recreation, air and water quality, land use, and other resources in the area. This evaluation will additionally consider when appropriate to the project, the potential impact on the environment from the construction of power plants and transmission lines which may later be required but are not included in the project.

(1) To aid in the above evaluation the Manager may request and consider the views and recommendations of other Federal agencies, may hold public hearings after appropriate notice, and will consult with State and local government agencies, environmental and industrial organizations, and others.

(2) If the Manager determines that the proposed project will have a potentially significant effect on the quality of the human environment and that an environmental statement under section 102(2)(c) of the National Environmental Policy Act of 1969 previously has not been filed documenting such effect, final action on the guaranty application shall be held in abeyance until an environmental impact statement has been prepared and issued by the responsible Federal agency.

(3) If the Manager determines that the proposed project will not have a potentially significant effect on the quality of the human environment, a declaration to that effect shall be prepared by the Manager and published in the FEDERAL REGISTER prior to final action on the guaranty application, and an environmental assessment documenting that determination shall be kept on file by the Manager.

(b) Each loan guaranty agreement shall include the following general terms and conditions for the protection of the environment:

(1) The borrower shall comply with all Federal, State and local standards with respect to the control of all forms of air, land, water, and noise pollution. In the absence of standards, the Manager will establish standards and the borrower shall comply with such standards.

(2) The borrower, in addition to any other action required by Federal, State or local standards, or standards established by the Manager, shall take the

following specific actions (for purposes of this paragraph the appropriate agency official means the Manager for projects conducted on private or State-owned land and the Secretary of the Interior for projects conducted on land administered by the Department of the Interior):

(i) Conduct operations in such a manner as to minimize disturbance to vegetation, drainage channels, and streambanks and employ such soil and resource conservation and protection measures as are deemed necessary by the appropriate agency official;

(ii) Remove or dispose of all waste generated in connection with the project in a manner acceptable to the appropriate agency official;

(iii) Take all reasonable precautions necessary to minimize to the lowest extent practicable, land subsidence or seismic activity which could result from the project, take measures to monitor operations for land subsidence and seismic activity and, when requested by the appropriate agency official, make available records of all monitoring activities;

(iv) Take aesthetics into account in the planning, design, and construction of facilities;

(v) Employ such measures as are deemed necessary by the appropriate agency official to protect fish and wildlife and their habitat;

(vi) Conduct activities on discovered, known or suspected archeological, paleontological, or historical sites in accordance with specific instructions issued by the appropriate agency official;

(vii) Provide for the reasonable restoration of all distributed lands; and

(viii) Employ such other measures as are deemed necessary by the appropriate agency official to protect the quality of the human environment.

(c) For projects conducted on private or State owned land:

(1) Assuring compliance with the requirements set forth in (b) above shall be the responsibility of the Manager, who may utilize experts from other Federal agencies, National Laboratories or private firms and shall have access to reports prepared by the borrower in compliance with requirements imposed by Federal, State and local government agencies.

(2) The borrower shall submit an annual report to the lender for transmittal to the Manager giving a full account of actions taken to comply with the requirements set forth in (b) above.

(d) For projects to be conducted on land administered by the Department of the Interior:

(1) Assuring compliance with safety and operating procedures and environmental protection standards and requirements shall be the responsibility of the Secretary of the Interior or a representative authorized by the Secretary as provided in 30 CFR Part 270.

(2) The borrower shall provide to the lender for transmittal to the Manager a copy of the annual Environmental Com-



pliance Report prepared in accordance with 30 CFR Part 270.76.

(e) Nothing in this regulation shall be construed to modify requirements imposed on the borrower or lender by Federal, State and local government agencies in connection with permits, licenses, or other authorization to conduct or finance geothermal activities.

#### § 790.24 Mandatory purchase of flood insurance.

The Flood Disaster Protection Act of 1973 (Pub. L. 92-234, December 31, 1973) requires purchase by the borrower of flood insurance as a condition of receiving any form of Federal financial assistance, including guarantees on loans, for acquisition or construction purposes in an identified flood plain area having special flood hazards. After July 1, 1975, the requirement applies to all identified special flood hazard areas within the United States, so that no Federal financial assistance can legally be provided for buildings in these areas unless the community has entered the National Flood Protection Insurance Program and flood insurance has been purchased.

Questions emanating from borrowers or lenders regarding compliance with provisions of the Flood Disaster Protection Act and guidelines of the Federal Insurance Administration as published on July 17, 1974 in the *FEDERAL REGISTER*, Volume 39, 26186-93, shall be referred to the Manager who is responsible for processing the guaranty application. When the purchase of flood insurance is required, as determined by the Manager, such costs can be included by the borrower in the total project cost.

#### Subpart C—Servicing and Closing

##### § 790.30 Loan servicing by lender.

Loan guaranty agreements approved in accordance with this regulation shall provide that:

(a) The lender shall exercise such care and diligence in the disbursement, servicing, collection and liquidation of the loan as would be exercised by a reasonable and prudent commercial bank in dealing with a loan without guaranty;

(b) The lender shall grant to the borrower no extension of time for the making of any repayment in whole or in part due on the loan without the prior written consent of the Manager;

(c) The lender shall notify the Manager in writing without delay:

(1) That first disbursement is ready to be made, together with evidence that the project has commenced or is about to commence;

(2) Of the date and amount of each disbursement on the loan and such notification shall be made monthly or at agreed upon intervals;

(3) Of any default by the borrower on the payment of principal or interest as set forth in the loan agreement, if such nonpayment is not cured within thirty days of its known occurrence, and shall furnish evidence of notifications made by the lender to the borrower that the borrower is in default;

(4) Of any failure by an intended source of capital to honor its commitment; and

(5) Of any failure by the borrower, known to the lender, to comply with terms and conditions as set forth in the loan agreement or guaranty agreement.

(d) In the event the lender retains the option to accelerate payment of the borrower's indebtedness, the lender shall not do so without the prior written consent of the Manager.

(e) The lender agrees that a term of the loan agreement will permit the borrower to defer payments of principal until such time as is set forth in the loan agreement.

##### § 790.31 User charge.

The Administrator will charge the lender 1/2 of 1 percent yearly on the anticipated average amount outstanding during the year on the guaranteed portion of the loan. The user charge may be passed to the borrower by the lender and in such instances may be included in the project cost as provided in § 790.22 (c) (6). At the time the guaranty agreement is closed, as set forth in § 790.45 (d), the lender shall present to the Manager payment of the first year's user charge. Subsequent payments of the charge will be made by the lender on the anniversary date of closing. The Administrator annually will evaluate whether the user charge rate is sufficient to cover administrative, default and interest assistance costs and, when appropriate, establish a revised rate to be applied to new guaranty agreements.

##### § 790.32 Geothermal resources development fund.

(a) As provided in section 204(a) of Pub. L. 93-410, there is established in the Treasury of the United States a Geothermal Resources Development Fund (hereinafter referred to as the Fund), which shall be available to the Administrator in carrying out the provisions of this regulation.

(b) Appropriations to be funded that are made available through legislation or amounts returned to the United States through recoveries by the U.S. Attorney General, as provided in § 790.8, shall constitute a reserve to be available to the Administrator for the payment to lenders of principal and interest on guaranty and interest agreements made in accordance with this regulation. In addition, balances in the Fund may be used for necessary administrative expenses incurred by ERDA in carrying out the provisions of this regulation.

(c) In the event that interest payments and default payments exhaust balances in the Fund, the Administrator will promptly seek to obtain appropriations.

##### § 790.33 Project monitoring.

As designated by the Manager or as permitted by law, employees of ERDA and other Federal agencies may make visits to projects. The lender and borrower will assure availability of information related to the project as is necessary to deter-

mine technical progress, soundness of financial condition, management stability, compliance with environmental protection standards and requirements, and other matters pertinent to the guaranty. As provided in § 790.44 (b), Federal employees will preserve the confidentiality of: any geological and geophysical information and data concerning wells; trade secrets; and, business and financial information. This provision does not affect requirements placed on the borrower in §§ 790.6 (q) and 790.44.

##### § 790.34 Loan disbursements by lender.

Lender shall not make first disbursement on the loan until it has followed notification requirements as set forth in § 790.30 (c) (1) and has received written notice from the Manager that disbursement is approved. Disbursements may be made by the lender as set forth in the loan agreement upon receipt from the borrower of satisfactory documentary evidence, as provided in § 790.35, that funds requested will be used to pay the borrower's costs and expenses incurred or to be incurred in connection with the project.

##### § 790.35 Satisfactory documentary evidence.

The borrower shall furnish to the lender a written statement in support of each request by the borrower for progress payments, setting forth in such detail as the lender may require and attesting that use of the proceeds from such disbursements will be for the purposes intended. Signature on the requesting document by a person known by the lender to have principal responsibility for ordering the expenditure of the borrower's funds shall constitute satisfactory documentary evidence for the purpose of making disbursements by the lender.

##### § 790.36 Withdrawal of guaranty.

(a) The Manager, with the approval of the Administrator, and except in the demonstration by the lender of extenuating circumstances, may terminate the guaranty by written notice to the lender if:

(1) Initiation of activity on the project does not occur within the period of time set forth in the guaranty agreement. Within sixty days after termination, under this circumstance the manager shall reimburse to the lender the full amount of the user charge paid by the lender;

(2) There is non-compliance by the borrower or lender with pertinent terms and conditions set forth in either the loan agreement or the guaranty agreement, other than those concerning initiation of activity as referred to in (a) (1), above;

(3) There is failure to acquire capital from intended sources, as provided in § 790.21 (a) (16), and the borrower is unable to acquire alternate sources within a reasonable time as approved by the Manager.

(b) If the borrower fails to comply with pertinent terms and conditions set forth in either the loan agreement or the guaranty agreement, but the lender has



complied with the requirements placed upon it as set forth in § 790.30, the guaranty shall be reduced to the amount that has been disbursed by the lender as of the date notification of such termination is provided to the lender by the Manager. Disbursements made by the lender after such notification is received will not be covered by a guaranty.

(c) If the lender fails to comply with pertinent terms and conditions set forth in the guaranty agreement, the borrower, upon notification in writing by the Manager to that effect, may take action to acquire an alternate lender that is capable of complying with pertinent provisions in this regulation. Upon completion of that action by the borrower, a guaranty agreement, if desired by the alternate lender and acceptable to the Administrator. Upon issuance of the new guaranty to the alternate lender, the original lender shall be reimbursed by the borrower for unpaid principal outstanding and accrued interest. However, if the borrower elects to remain with the original lender, or cannot obtain an alternate lender, the guaranty may be terminated at the Administrator's option.

#### § 790.37 Default and demand.

(a) If the borrower defaults in making payment of principal or interest within the time period allowed in § 790.30 (c) (3) and the lender has complied with the requirements placed on it as set forth in § 790.30, the lender may make demand in writing upon the Manager for payment pursuant to the guaranty, subject to the conditions described in (b), (c) and (d) below.

(b) The Administrator shall, pursuant to the provisions of § 790.7, determine whether an interest agreement shall be executed by the Manager. In the event that interest assistance is not warranted, the lender shall make available without delay such documents and certifications as the Manager may reasonably require evidencing the lender's compliance with the provisions of the guaranty agreement.

(c) To the extent that sufficient reserves exist in the Geothermal Resources Development Fund: (i) The Manager shall within sixty days after receipt of such documents, pay to the lender on a proportionate basis the guaranteed amount of unpaid principal and accrued interest outstanding at the date of default; and (ii) during the period beginning from sixty days after receipt of such documents and until payment is made by the Manager, interest will accrue and be paid by the Manager on the proportionate amount of guaranteed unpaid principal either at a rate equivalent to the average short term Treasury Bill rate as published by the Federal Reserve Bank of New York or as determined by the Secretary of the Treasury.

(d) The lender shall concurrently with such payment by the Manager assign to the United States and transfer and deliver to the Manager the loan documents, together with all collateral documents

evidencing any and all security for and guaranties of the loan then held by the lender as set forth in the guaranty agreement.

#### § 790.38 Preservation and liquidation of collateral.

The lender and borrower shall take such actions as may reasonably be required to enable the Manager, upon default by the borrower, to provide for such care, preservation, maintenance or liquidation of collateral, security and guaranties for the loan as may be necessary to achieve maximum recovery.

#### § 790.39 Treatment of payments.

When the lender holds the guaranteed and non-guaranteed portion of the loan, payments of principal made by the borrower in accordance with the loan agreement shall be applied by the lender to reduce the guaranteed and non-guaranteed portions of the loan on a proportionate basis.

#### § 790.40 Assignment and incontestability.

(a) Except as may be required by law, the lender shall not assign any rights or obligations under the guaranty agreement without the prior written consent of the Administrator. However, the lender may grant to other lenders participating shares in the loan without such prior consent. Written notice shall be given to the Manager when participating shares are granted by the lender. However, the Manager shall be required to recognize and deal only with the original lender.

(b) Subject to the conditions of the guaranty agreement, such a guaranty shall be incontestable by the holder of the guaranty except as to fraud or material misrepresentation.

#### § 790.41 Survival of guaranty agreement.

The guaranty agreement shall be binding upon the lender and the Administrator and upon their successors and/or assignees and shall survive payment by the United States. No delay or failure of the Administrator or the Manager in the exercise of any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof, and no action taken or omitted by the Administrator or the Manager shall be deemed a waiver of any such right or remedy.

#### § 790.42 Security with respect to borrower's assets.

Financial assistance in the form of a loan guaranteed under this regulation will be secured by liens or assignments of rights in assets as are associated with the project or any other security included in the terms of the guaranty. Upon default by the borrower, as set forth in § 790.8, the Attorney General will not seek recourse to other assets held by the borrower which are not associated with the project or included in the terms of the guaranty.

#### § 790.43 Other Federal financial assistance.

Nothing in this regulation shall be interpreted to deny or limit the borrower's ability to seek and obtain other Federal financial assistance (e.g., contracts, grants, direct loans or guaranteed loans). To the extent that such other assistance is obtained by the borrower to carry out the project, the amount of the loan guaranty obtained under this regulation will be reduced in the same amount. However, after approval of the loan guaranty application the borrower will not undertake any work in connection with the project (by contract or grant) for a Federal agency without written approval signifying the Manager's finding that performance of the work will not adversely affect completion of the project.

#### § 790.44 Patent and proprietary rights.

(a) Patents and other proprietary rights accruing to the borrower and resulting from the project will remain with the borrower, except such rights shall be, in the case of default, treated as project assets in accordance with terms and conditions in the guaranty agreement. However, the guaranty agreement may provide that patents or other proprietary intellectual property rights utilized in the project which are owned or controlled by the borrower shall be made available to other domestic parties upon reasonable terms and conditions which protect the confidentiality of information, if such action is determined by the Administrator to be in the public interest. Generally this requirement will not be needed where the principal purpose of the loan to be guaranteed is to utilize generally available technology to determine and evaluate a new geothermal resource base, or the acquisition of rights in geothermal resources. Where the principal purpose of the loan is for research and development with respect to extraction and utilization technologies, or for the development or demonstration of new and unique facilities or equipment the requirements for making patents and other proprietary intellectual property available to other domestic parties shall normally be included in the guaranteed agreement unless the Administrator determines, upon the recommendation of the Manager, that such implementation would either seriously impair the borrower's ability to conduct the project, or seriously impair the borrower's ability to maintain a market-place posture. The Administrator's determination on this matter shall include consideration of whether attainment of the objectives of the Federal geothermal loan guaranty program, as set forth in § 790.2, will be adversely affected by this requirement.

(b) Subject to requirements of law, trade secrets, commercial and financial information, geological and geographical information and data (including maps) concerning wells which the borrower makes available and is furnished to ERDA in connection with the lender's application for a guaranty on a privi-



leged or confidential basis, will be so treated by ERDA and will not be publicly disclosed without the prior written approval of the borrower. In order to assist ERDA in carrying out this provision, information deemed by the borrower or lender to be confidential, shall be identified and appropriately marked by the borrower or the lender.

#### § 790.45 Closing.

The major activities engaged in during guaranty closing include the following:

(a) An application for a loan guaranty will be subject to approval by the Administrator and will be subject to terms and conditions which the Administrator deems necessary and appropriate. The approval document will be offered by the Manager to the lender for acceptance.

(b) A preclosing conference will be arranged by the Manager if the lender requests one to discuss the terms and conditions contained in the agreement and how these terms and conditions can be met.

(c) Requests by the lender for modification of the terms and conditions set forth in the approval document shall be submitted to the Manager, supported by such documentation and facts as would justify the requests.

(d) Immediately after agreement to terms and conditions, the Manager shall arrange with the lender for the preparation, review and signing of necessary documents and payment of the user charge.

#### § 790.46 Periodic reports.

Lenders will submit to the Manager periodic financial statements that report the status and condition of each loan guaranteed or interest assistance agreement entered into under this regulation. The Manager will prescribe the frequency, format and content of such statements. However, a report on each loan guaranteed and interest assistance agreement entered into under this regulation, shall as a minimum, be submitted to the Manager annually on the anniversary date of the guaranty or interest assistance agreement. Reports will be furnished to the Manager until such time as the guaranteed portion of the loan or interest assistance is repaid or terminated.

#### APPENDIX A

##### ADDRESSES OF MANAGERS OF ERDA OPERATIONS OFFICES

Manager, U.S. Energy Research and Development Administration, Albuquerque Operations Office, Albuquerque, New Mexico 87115.

Manager, U.S. Energy Research and Development Administration, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439.

Manager, U.S. Energy Research and Development Administration, Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83401.

Manager, U.S. Energy Research and Development Administration, Nevada Operations Office, P.O. Box 14100, Las Vegas, Nevada 89114.

Manager, U.S. Energy Research and Development Administration, Oak Ridge Operations Office, Oak Ridge, Tennessee 37830.

Manager, U.S. Energy Research and Development Administration, Richland Operations Office, P.O. Box 550, Richland, Washington 99352.

Manager, U.S. Energy Research and Development Administration, San Francisco Operations Office, 1333 Broadway, Wells Fargo Bldg., Oakland, California 94616.

Manager, U.S. Energy Research and Development Administration, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29801.

[FR Doc.75-28868 Filed 10-24-75; 8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### [ 10 CFR Parts 205 and 303 ]

#### EXCEPTIONS AND APPEALS PROCEDURES CERTAIN NOTICE PROVISIONS

##### Notice of Proposed Rulemaking

The Federal Energy Administration (FEA) hereby gives notice of a proposal to amend Parts 205 and 303 ("Administrative Procedures and Sanctions"), Chapter II of Title 10, Code of Federal Regulations, to delete certain notice provisions of the regulations governing exceptions and appeals. Notice is also given that FEA will receive written comments with respect to the proposal.

With respect to exception and appeal proceedings under Parts 210, 211, 212, 213 and 215, §§ 205.57(a) and 205.109(a) require that FEA notify the applicant and all parties which received notice of an exception proceeding under § 205.53 or appeal proceeding under § 205.104, when it has received all information which it deems necessary to process the exception application or appeal. Sections 205.57(a) and 205.109(a) further provide that if FEA then fails to act within ninety days of service of such notice, the applicant may treat the application or appeal as having been denied in all respects and may appeal the denial, in the case of an exception application, or seek judicial review, in the case of an appeal. The same provisions appear in §§ 303.77(a) and 303.110(a) for exceptions and appeals proceedings under Parts 305, 307 and 309.

FEA proposes to eliminate §§ 205.57(a), 205.109(a), 303.77(a) and 303.110(a) because it has determined that these notice provisions do not serve the purpose for which they were intended and therefore do not justify the administrative burdens imposed by them. The 90-day notice provisions were added to these sections to establish a finite time limitation for decisions on exceptions and appeals. In view of the absolute limitation of 150 days from filing for an exception decision imposed by §§ 205.57(b) and 303.77(b), and 120 days from filing for a decision on an appeal imposed by §§ 205.109(b) and 303.110(b), however, and the fact that since the 90-day notice provisions were added to the regulations no applicant or appellant has sought administrative or judicial review on the basis of FEA's failure to act with-

in the time periods specified in §§ 205.57(b), 205.109(b), 303.77(b) or 303.110(b), the 90-day notice provisions appear to serve no useful purpose. In addition, the notice requirements could cause needless delay in instances where a great number of parties must be notified.

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth herein to Executive Communications, Room 3309, Federal Energy Administration, Box EQ, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "90-day Notice Provisions." Fifteen copies should be submitted. All comments received by November 10, 1975 before 4:30 p.m., E.S.T., and all relevant information will be considered before final action is taken on the proposed regulations.

Any information or data considered confidential by the person furnishing it must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

FEA has determined that the procedural amendment proposed herein is not likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses and thus, under section 7(i) (1) (C) of the Federal Energy Administration Act of 1974, Pub. L. 93-275 ("FEAA"), a public hearing is not required. In accordance with section 7(c) (2), the amendment adopted herein has not been forwarded to the Administrator of the Environmental Protection Agency for comment because FEA has determined that it will not affect the quality of the environment.

This amendment has been reviewed in accordance with Executive Order 11821 and has been determined not to require evaluation of its inflationary impact.

(Emergency Petroleum Allocation Act of 1973, as amended by Pub. L. 93-511 and Pub. L. 94-99; Energy Supply and Coordination Act of 1974, Pub. L. 93-319; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, it is proposed that Parts 205 and 303 of Chapter II, Title 10 of the Code of Federal Regulations, be amended as set forth below.

Issued in Washington, D.C., October 22, 1975.

DAVID G. WILSON,  
Acting General Counsel.

#### PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

##### § 205.57 [Amended]

1. Section 205.57 is amended by revoking and reserving paragraph (a).

##### § 205.109 [Amended]

2. Section 205.109 is amended by revoking and reserving paragraph (a).



# PART 303—ADMINISTRATIVE PROCEDURES AND SANCTIONS

## § 303.77 [Amended]

3. Section 303.77 is amended by re-vo-king and reserving paragraph (a).

## § 303.110 [Amended]

4. Section 303.110 is amended by re-vo-king and reserving paragraph (a).

[FR Doc. 75-28807 Filed 10-22-75; 12:23 pm]

# INTERSTATE COMMERCE COMMISSION

## [49 CFR Part 1100]

[Ex Parte No. 55 (Sub-No. 4)]

# NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

## Revised Guidelines for Implementation

Upon consideration of the record in the above-entitled proceeding; and

It appearing, That the Federal Register Notice of the institution of this rule-making proceeding at 40 FR 37233 (August 26, 1975) omitted the Notice of Proposed Rulemaking and a Preliminary Statement which invited comment thereon in light of the recent Supreme Court decision in *Aberdeen & Rockfish Railroad Co. v. Students Challenging Regulatory Agency Procedures (SCRAP)*, — U.S. — (1975); that said omission necessitates republication of the proposed revised guidelines, accompanied by the Preliminary Statement, the Notice of Proposed Rulemaking, and an extension of time in which representations on the proposed rulemaking shall be filed, in order to ensure informed public comment on the impact of the SCRAP decision on said guidelines; and good cause appearing therefor:

It is ordered, That the time in which representations on the proposed rule-making shall be filed be, and it is hereby, extended to December 12, 1975.

It is further ordered, That notice to the general public of the matter here under consideration will be given by depositing a copy of this order, the Notice of Proposed Rulemaking, and the Preliminary Statement in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by filing a copy thereof with the Director, Office of the Federal Register, for publication in the Federal Register as notice to interested persons.

Dated at Washington, D.C., this 21st day of October, 1975.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD,  
Secretary.

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 29th day of July 1975.

## PRELIMINARY STATEMENT

In light of the recent Supreme Court opinion rendered in *Aberdeen & Rockfish Railroad Co. v. Students Challenging*

*Regulatory Agency Procedures (SCRAP)*, — U.S. — (Nos. 73-1966 and 73-1971, June 24, 1975), 7 ERC 2009 (SCRAP II), certain questions have arisen concerning procedures which an adjudicatory agency such as this Commission must follow in complying with the National Environmental Policy Act of 1969. Likewise, several provisions of the Council on Environmental Quality's Guidelines, 38 Fed. Reg. 20550 (August 1, 1973), may no longer be applicable to this Commission.

Consequently, the proposed rules which are the subject of following Notice of Proposed Rulemaking should be examined in light of SCRAP II and the public is invited to comment not only on the proposed rules but on the following additional questions raised by SCRAP II:

1. In light of SCRAP II, should the Commission revise its environmental regulations currently in force and codified at 49 C.F.R. § 1100.250. (Appendix A of following Notice of Proposed Rulemaking)?

2. If so, how should the regulations be modified to recognize the impact of SCRAP II as to the timing of draft impact statements in adjudicatory proceedings?

3. Is the filing of a draft environmental impact statement a prerequisite to the preparation of the "detailed (final) impact statement" required by NEPA?

4. Is an applicant-prepared environmental impact report an appropriate vehicle for consulting with and obtaining comments from other Federal agencies?

Section 101 of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.* (NEPA) declares: that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

To implement this policy the Congress, in section 102 of NEPA, authorizes and directs "that, to the fullest extent possible": (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality \* \* \*, which will insure that presently unqualified environmental amenities and values

may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes.

The policies and goals set forth in NEPA are made supplementary to those set forth in existing authorizations of Federal agencies, and all such agencies, including this Commission, were required to review their statutory authority, administrative regulations, and policies and procedures for the purpose of determining whether there were any deficiencies or inconsistencies therein which prohibited full compliance with the purpose and provisions of that act.

## BACKGROUND

The National Environmental Policy Act was signed into law on January 1, 1970. By the terms of Executive Order 11514, Protection and Enhancement of Environmental Quality, dated March 5, 1970, the Federal Government was directed to "provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life," and Federal agencies were specifically required to "initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals." Consonant with this policy, the heads of Federal agencies are required, among other things, (1) to "(m)onitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment," and (2) to "(d)evelop procedures to ensure the fullest practicable provision of timely public



information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action." The Congress, through The Environmental Quality Improvement Act of 1970, Public Law 91-224, enacted April 3, 1970, also has declared that there is a national policy which provides for the enhancement of environmental quality and that this policy is "evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development." (Emphasis added.) And, finally, the Council on Environmental Quality released interim guidelines dated April 30, 1970, to govern statements on proposed Federal actions affecting the environment.

In response to the interim guidelines promulgated by CEQ this Commission, on May 26, 1971, instituted a rulemaking proceeding to propose special rules pertaining to all proceedings before this Commission to insure that environmental amenities and values are accorded appropriate consideration in compliance with NEPA. Ex Parte No. 55 (Sub-No. 4), *Implementation—Natl. Environmental Policy Act, 1969*, 339 I.C.C. 508 (1971). The proposed guidelines were adopted by this Commission by a report and order served February 3, 1972, 340 I.C.C. 431 (1972), and codified at 49 C.F.R. § 1100.250. These guidelines, which are attached hereto as appendix A, require that all initial papers filed with this Commission by a party should indicate whether the requested Commission action would have an effect on the quality of the human environment. If any effect is alleged to be present, all parties must submit statements concerning the five factors that NEPA requires. When the proposed action is determined to have a significant environmental impact, a detailed environmental impact statement will be made as part of the initial determination by an Administrative Law Judge, which will become final (with or without modification) when the Commission enters its final order. These guidelines, which are presently in force, do not contemplate the holding of hearings before an Administrative Law Judge prior to the issuance of a draft environmental impact statement. 340 I.C.C. 441.

Since the promulgation of this Commission's NEPA guidelines in February 1972, a number of court decisions have been handed down which have cast serious doubt on our NEPA procedures. In *Greene County Planning Board v. Federal Power Commission*, 455 F. 2d 412 (2d Cir., 1972), 3 ERC 1599, the NEPA guidelines prepared by FPC were declared invalid because the agency had substituted an environmental impact statement prepared by an applicant as its own and had

failed to make the draft statement available prior to the holding of formal hearings. Following the *Greene County* decision, the CEQ revised its interim guidelines to conform with this court decision (codified at 40 C.F.R. 1500). The revised CEQ Guidelines suggest that no public hearings be held until at least 15 days after issuance of a draft environmental impact statement. In addition, the guidelines recognize that agencies must depend on applicants to provide initial environmental information in some situations. Consequently, agencies should assist applicants by outlining the types of information required, but, in all cases, the agency should make its own evaluation of the environmental issues and take responsibility for the scope and content of draft and final impact statements (§ 1500.7(c)).

The Second Circuit had occasion to review this Commission's environmental guidelines. In *Harlem Valley Transportation Association v. Stafford*, 500 F. 2d 328 (2d Cir., 1974), 6 ERC 1855, affirming 360 P. Supp. 1057 (S.D.N.Y., 1973), 5 ERC 1503, the court expressly followed its earlier holding in *Greene County* and found, among other things, that this Commission's environmental guidelines as applied to rail abandonment proceedings did not comply with NEPA, in that evaluation of environmental issues must take place prior to any hearings and the impact statement must be the product of an independent staff investigation rather than a reliance on applicant's assertions.

Since *Harlem Valley*, this Commission has been in *de facto* compliance with NEPA, the revised CEQ Guidelines, and the relevant court decisions. In excess of twenty (20) impact statements and more than one hundred (100) environmental threshold assessment surveys have been prepared by our independent multidisciplinary Environmental Staff. It is apparent, however, that this Commission's NEPA guidelines must be revised in order to codify these procedural and substantive changes. It is the purpose of this rulemaking proceeding to propose revised guidelines which will apply to all proceedings before this Commission, and which will delineate the procedures to be followed to insure timely and careful review of any environmental issues raised.

#### IMPLEMENTATION

To implement revisions in this Commission's NEPA procedures we propose to substitute for our present guidelines (49 C.F.R. 1100.250), the revised guidelines as set forth in the *FEDERAL REGISTER* issue of August 26, 1975 (40 FR 27233).

A few of the provisions of the proposed revised guidelines require some explanation. The guidelines propose three procedures for considering environmental issues. All proceedings before this Commission will be governed by one of these three procedures depending on the expected level of environmental impacts, as follows: (1) If the action contemplated

is "major" and will have a significant impact on the quality of the human environment, an environmental impact statement will be prepared. Section 1108.8 sets forth various factors which this Commission will consider to determine the need for an impact statement and specifies the classes of actions for which an impact statement will normally be required; (2) If the action contemplated is of the general class where some environmental impact is usually present, each application will be examined on a case-by-case basis to determine the type of environmental analysis required. Section 1108.9 specifies the classes of actions which must be examined on a case-by-case basis; and (3) If it is determined that a contemplated action has no environmental issues present or that the impacts alleged are inconsequential or frivolous, this Commission will include in the initial procedural order a summary environmental negative declaration stating the absence of any environmental issues. Section 1108.10 specifies the classes of actions which will normally be processed by the issuance of a summary negative declaration.

Inasmuch as this Commission must rely on applicants to supply certain background factual information concerning design, functions, and management intentions relative to their own proposals, extensive reporting requirements are being proposed. The information which must accompany an application, outlined in § 1108.11, is designed to provide factual information which this Commission feels is essential for our independent environmental review and analysis. The degree of information required will depend on the type of proceeding involved and is based on the potential for environmental impacts. All supplemental information required by these guidelines and furnished by an applicant, proponent, or complainant will be investigated and supplemented by this Commission. Based on the information provided by applicant and staff investigation, the Commission will issue an independent environmental analysis. The scope and content of environmental impact statements and threshold assessment surveys is delineated in the proposed revisions.

The proposed regulations outline the procedure to be followed for environmental review of applications. The minimum periods for review of impact statements suggested by CEQ have been followed except as specified in § 1108.15(d) where, in certain cases, statutory obligations require shortened review periods.

When public hearings are contemplated for a particular proceeding where an environmental impact statement is required, the final statement will be made available at least fifteen (15) days prior to that portion of the hearing relating to the impact statement. Any party may challenge the content or validity of the final impact statement.



EXISTING RULES AND PRACTICES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

§ 1100.250 Special rules pertaining to all proceedings before the Commission to insure that environmental amenities and values are given appropriate consideration.

(a) *Scope of special rules.*—These special rules are applicable to all proceedings before the Commission. They are intended to assist the Commission in discharging its duties under the National Environmental Policy Act of 1969 (Public Law 91-190, 83 Stat. 852) which authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies for the protection of the environment declared in that act.

(b) *Detailed environmental statement.*—(1) It shall be the general policy of the Interstate Commerce Commission to adopt and adhere to the objectives and aims of the National Environmental Policy Act in performing its regulatory duties and powers under the Interstate Commerce Act and related statutes. Among other things, the National Environmental Policy Act requires, to the fullest extent possible, a detailed environmental statement in all reports and recommendations on legislative proposals and other major Federal actions which will significantly affect the quality of the human environment.

(2) In compliance with this requirement, a detailed environment statement will be made when the regulatory action taken by the Commission under the applicable statutes will have such a significant environmental impact. The detailed statement, which statement shall be made as part of the initial decision in the proceeding and shall become final (with or without modification) when a final decision or order is entered by the Commission, shall fully develop the five factors listed below among other relevant factors including the justification of a proposed action as compared to its alternatives. The following factors are listed merely to illustrate the kinds of values that must be considered in the statement, and in no respect is this listing to be construed as covering all factors relevant to the disposition of any particular proceeding:

- (i) The environmental impact of the requested action;
- (ii) Any adverse environmental effects which cannot be avoided should the requested action be granted;
- (iii) Alternatives to the requested action;
- (iv) The relationship if any between local short-term uses of man's environment and maintenance and enhancement of long-term productivity; and
- (v) Any irreversible and irretrievable commitments of resources which would be involved in the requested action should it be granted.

The procedures set forth in this rule are intended to encourage, to the fullest

extent possible, public and governmental participation in those formal proceedings which might significantly affect the quality of the human environment, and to the end of insuring that a complete record is developed which will enable the Commission to consider fully the environmental impact of a contemplated action.

(c) *Applicable general and special rules not affected.*—The Commission's general and/or special rules heretofore applicable to a proceeding shall remain in effect and govern the procedure therein. These special rules shall supplement the applicable existing rules.

(d) *Papers to show effect of subject matter of proceeding on the quality of human environment.*—(1) In all initial papers filed with this Commission by a party, there shall be filed a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the paper shall include, but not be limited to, statements relating to each of the relevant factors set forth in paragraph (2) (i)-(v) of this section.

(2) In all proceedings determined or alleged to have a significant effect on the quality of the environment, all parties shall file statements submitting information relating to the relevant factors set forth in paragraph (b) (2) (i)-(v) of this section.

(e) *Notice to appropriate governmental agencies.*—(1) All papers submitted in compliance with these rules, and affirmatively alleging a substantial environmental impact, beneficial or adverse, shall be served by the person or persons submitting it on those governmental bodies given notice pursuant to subparagraph (1) of this paragraph. The person or persons submitting the statement also shall supply 10 copies of the statement to the Council on Environmental Quality.

(2) A notice of all proceedings determined to have a significant effect on the quality of the human environment will be transmitted by the Commission as promptly as possible to the Council on Environmental Quality and to appropriate governmental bodies—Federal, regional, State, and local—(as identified in the guidelines promulgated by the Council on Environmental Quality) with a request for public comments on the environmental considerations listed in paragraph (b) (2) (i)-(v) of this section.

(3) All interveners, including other Government agencies, taking a position on environmental matters shall file with the Commission an explanation of their environmental position, specifying any differences with the original party's detailed statement upon which intervenor wishes to make its views known, and including therein a discussion of that position in the context of the factors enumerated in paragraph (b) of this section. All interveners shall be responsible for filing 10 copies of their submission with the Council on Environmental Quality at the time they file with the Commission

and shall also supply a copy of such submission to all participants to the proceeding. Nothing herein shall preclude an intervenor from filing a detailed environmental statement. The Commission will consider all representations submitted prior to the final disposition of the proceeding.

(4) The views of the Council on Environmental Quality, if any, should be made in a written statement served upon the Secretary of the Commission and all parties of record.

(f) *Official notice.*—The Commission may take official notice of any facts relating to the environmental situations before it. This shall include, but not be limited to, scientific studies, governmental reports, and maps which have not been presented in evidence by any of the parties of record.

(g) *Determinations.*—The determinations in all proceedings which investigate environmental issues should include an evaluation of the environmental factors enumerated in paragraph (b) (2) (i)-(v) of this section, and the views expressed in conjunction therewith by all persons making formal comment pursuant to the provisions of this section. Specific findings should be made in each such proceeding as to whether the relief sought is or is not environmentally advantageous.

(h) *Review of initial decision on environmental impact.*—Any decision with respect to the environmental issue will be subject to Commission review in the same manner as other issues in the proceeding.

(i) *Proceedings in progress.*—With respect to those proceedings already in progress, the Commission recognizes that it may not be possible to comply fully with the procedures outlined herein and, in particular, that it may not be possible in every instance to include within the record all of the material relating to the environmental impact of the contemplated action which might otherwise be developed. Nonetheless, it is the policy of the Commission to apply these procedures to the fullest extent possible to proceedings already in progress.

[FR Doc. 75-28896 Filed 10-24-75; 8:45 am]

## JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

[20 CFR Parts 901, 902]

### HEARING

On August 27, 1975, proposed regulations for the enrollment of actuaries were published in the *FEDERAL REGISTER* (40 FR 38171). A public hearing on the provisions of these regulations will be held on November 24, 1975, beginning at 10:00 a.m., in Conference Room N3437 A&B, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. Those persons who requested on or before September 26, 1975, to comment orally at the hearing will be heard first. Thereafter, other individuals who desire to comment orally will be heard as time permits. The Chairman



of the Joint Board reserves the right to limit the length of presentations at the hearing.

[SEAL] DONALD S. GRUBBS, Jr.,  
Chairman, Joint Board for the  
Enrollment of Actuaries.

[FR Doc.75-29027 Filed 10-24-75;8:45 am]

# VETERANS ADMINISTRATION

## [ 38 CFR Part 3 ]

### VETERANS BENEFITS

#### Ratings and Evaluations

Section 104 of Public Law 94-71 (89 Stat. 395), enacted August 5, 1975, and effective August 1, 1975, amended section 3010(b) of title 38, United States Code, to provide that the effective date of an award of increased compensation shall be the earliest date as of which it is ascertainable that an increase in disability has occurred, if a claim is received within 1 year from such date. Section 3.400(o) of Title 38, Code of Federal Regulations, which specifies effective dates for increased benefits, has been amended to incorporate this provision in the regulations. Prior to this amendment of section 3010(b) of title 38, United States Code, an award of increased benefits could not be made effective as of a date prior to the date of receipt of the claim for increase. Under the amend-

ment an award of increased disability compensation may be made effective prior to the date of receipt of claim where the evidence establishes that the increase in disability occurred prior to that date.

Section 3.321(b) of Title 38, Code of Federal Regulations, specifies conditions for assigning extra-schedular disability evaluations in exceptional cases where the evaluations provided in Part 4 of this chapter are not deemed adequate. Paragraph (b) (3) currently states that the effective date of extra-schedular evaluations in claims for increased benefits will be in accordance with the facts found but may not be earlier than the date of receipt of claim. It is proposed to amend this paragraph to provide that the effective dates of extra-schedular evaluations in claims for increased benefits will be in accordance with § 3.400(o). This amendment reflects that extra-schedular evaluations are subject to the same effective date provisions as apply to schedular evaluations.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before November 28, 1975 will be considered. All written comments received

will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is given that the amendment will be effective August 1, 1975.

In § 3.321, paragraph (b) (3) is revised to read as follows:

#### § 3.321 General rating considerations.

(b) \* \* \*

(3) *Effective dates.* The effective date of these extra-schedular evaluations granting or increasing benefits will be in accordance with § 3.400(b) (1) and (2) as to original and reopened claims and in accordance with § 3.400(o) in claims for increased benefits.

Approved: October 21, 1975.

By direction of the Administration.

[SEAL] ODELL W. VAUGHN,  
Deputy Administrator.

[FR Doc.75-28848 Filed 10-24-75;8:45 am]



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quested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with notes, a cash adjustment will be made to or required of the bidder for any difference between the face amount of notes submitted and the amount payable on the notes allotted.

#### V. ASSIGNMENT OF REGISTERED NOTES

1. Registered notes tendered as deposits and in payment for notes allotted hereunder are not required to be assigned if the notes are to be registered in the same names and forms as appear in the registrations or assignments of the notes surrendered. Specific instructions for the issuance and delivery of the notes, signed by the owner or his authorized representative, must accompany the notes presented. Otherwise, the notes should be assigned by the registered payee or assignee thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. When the new notes are to be registered in names and forms different from those in the inscriptions or assignments of the notes presented the assignment should be to "The Secretary of the Treasury for Treasury Notes of Series C-1982 in the name of (name and taxpayer identifying number)." If notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon Treasury Notes of Series C-1982 to be delivered to \_\_\_\_\_." Notes tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The notes must be delivered at the expense and risk of the holder.

#### VI. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

STEPHEN S. GARDNER,  
Acting Secretary of the Treasury.

[PR Doc.75-29058 Filed 10-24-75;9:16 am]

[Dept. Circular Public Debt Series No. 33-75]

### 8½ PERCENT TREASURY BONDS OF 1995-2000

Dated August 15, 1975, With Interest From November 17, 1975, Due August 15, 2000; Redeemable at the Option of the United States at Par and Accrued Interest On and After August 15, 1995.

#### I. INVITATION FOR TENDERS

OCTOBER 23, 1975.

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 94.01 percent of their face value for \$1,000,000, or thereabouts, of bonds of the United States, designated 8½ percent Treasury Bonds of 1995-2000. Additional amounts of these bonds may be issued at the average price of accepted tenders to Government accounts and Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Standard time, Thursday, October 30, 1975, under competitive and noncompetitive bidding, as set forth in Section III hereof. The 7 percent Treasury Notes of Series D-1975, maturing November 15, 1975, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

#### II. DESCRIPTION OF BONDS

1. The bonds now offered will be identical in all respects with the 8½ percent Treasury Bonds of 1995-2000 issued pursuant to Department Circular, Public Debt Series—No. 25-75, dated July 24, 1975, except that interest will accrue from November 17, 1975. With this exception the bonds are described in the following quotation from Department Circular No. 25-75:

"1. The bonds will be dated August 15, 1975, and will bear interest<sup>1</sup> from that date, payable semiannually on February 15 and August 15 in each year until the principal amount becomes payable. They will mature August 15, 2000, but may be redeemed at the option of the United States on and after August 15, 1995, in whole or in part, at par and accrued interest on any interest day or days, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption, the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

"2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all

<sup>1</sup>On July 31, 1975, the Secretary of the Treasury announced that the interest rate on the bonds would be 8½ percent per annum.

taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

"3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

"4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000 and \$1,000,000. Book-entry bonds will be available to eligible bidders in multiples of those amounts. Interchanges of bonds of different denominations and of coupon and registered bonds, and the transfer of registered bonds will be permitted.

"5. The bonds will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States bonds."

#### III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., eastern standard time, Thursday, October 30, 1975. Each tender must state the face amount of bonds bid for, which must be \$1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "non-competitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 94.01 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed \$500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account. Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment (in cash or the 7 percent Treasury Notes of Series D-1975 which will be accepted at par) of 5 percent of the face amount of bonds applied for.



3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept less than the \$1,000,000,000 of bonds offered to the public, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for \$500,000 or less without stated price from any one bidder will be accepted in full at the average price<sup>2</sup> (in two decimals) of accepted competitive tenders.

#### IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids together with \$21.39266 per \$1,000 for accrued interest from August 15 to November 17, 1975, must be made or completed on or before November 17, 1975, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt. Payment must be in cash, 7 percent Treasury Notes of Series D-1975 (interest coupons dated November 15, 1975, should be detached), in other funds immediately available to the Treasury by November 17, 1975, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Wednesday, November 12, 1975, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Monday, November 10, 1975, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of bonds allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with notes, a cash adjustment will be made to or required of the bidder for any difference between the face amount

of notes submitted and the amount payable on the bonds allotted.

#### V. ASSIGNMENT OF REGISTERED NOTES

1. Registered notes tendered as deposits and in payment for bonds allotted hereunder are not required to be assigned if the bonds are to be registered in the same names and forms as appear in the registrations or assignments of the notes surrendered. Specific instructions for the issuance and delivery of the bonds, signed by the owner or his authorized representative, must accompany the notes presented. Otherwise, the notes should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. When the bonds are to be registered in names and forms different from those in the inscriptions or assignments of the notes presented the assignment should be to "The Secretary of the Treasury for 8 3/4 percent Treasury Bonds of 1995-2000 in the name of (name and taxpayer identifying number)." If bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 8 3/4 percent coupon Treasury Bonds of 1995-2000 to be delivered to \_\_\_\_\_." Notes tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The notes must be delivered at the expense and risk of the holder.

#### VI. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of bonds on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

STEPHEN S. GARDNER,  
Acting Secretary of the Treasury.

[FR Doc.75-29059 Filed 10-24-75; 9:16 am]

#### DEPARTMENT OF DEFENSE

##### Department of the Navy

#### NAVAL POSTGRADUATE SCHOOL BOARD OF ADVISORS TO THE SUPERINTENDENT

##### Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. D) notice is hereby given that the Board of Advisors to the Superintendent of the Naval Postgraduate School will hold public meetings on November 20-21, 1975, in the mezzanine conference room of the Naval Postgraduate School, Monterey, California. The ses-

sions on both days will commence at 8:00 a.m. and terminate at 5:30 p.m.

The Board was appointed to advise and assist the Superintendent concerning the Naval Postgraduate School education. A short report by the Superintendent and discussions on the recommendations made by the DoD Committee on Excellence in Education and the Navy Graduate Education Program Select Study Committee are scheduled. In addition, progress, results and implementation of the Naval Postgraduate School Continuing Education Program will be discussed.

OCTOBER 21, 1975.

LARRY G. PARKS,  
Captain, JAGC, U.S. Navy Assistant Judge Advocate General (Civil Law).

[FR Doc.75-28759 Filed 10-24-75; 8:45 am]

#### DEPARTMENT OF THE INTERIOR

##### Bonneville Power Administration

#### DRAFT FACILITY LOCATION SUPPLEMENT

##### Public Meetings

Notice of public information meetings is hereby given by the Bonneville Power Administration to solicit public comments on the Draft Facility Location Supplement to BPA's Fiscal Year 1977 Program Environmental Statement covering the proposed Hot Springs-Bell 500-kV transmission line.

The Draft Facility Location Supplement on this proposal describes the environmental impact of constructing a 500-kV transmission line between Hot Springs Substation near Hot Springs, Montana, and Bell Substation, near Spokane, Washington.

The purpose of these public information meetings is to present to the public alternative line locations relative to the proposed facility, and to solicit comments from the public with respect to the environmental impacts of the alternatives.

A notice of availability on the Draft Facility Location Supplement for Hot Springs-Bell 500-kV line appeared in the FEDERAL REGISTER on September 26, 1975. Copies of the Draft Facility Location Supplement describing the proposal are available for inspection in the library of the headquarters office of EPA, 1002 NE Holladay Street, Portland, Oregon 97232; the BPA Washington, D.C., Office in the Interior Building, Room 5600; the Spokane Area Office, Room 561, U.S. Courthouse, W. 920 Riverside Avenue, Spokane, Washington 99201; and at the Kalispell District Office, 5 miles east of Kalispell on Highway 2, Box 753, Kalispell, Montana 59901.

A limited number of copies are also available and may be obtained by writing to the Environmental Office, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, or to the Spokane Area Manager or the Kalispell District Manager at the above addresses.

<sup>2</sup> Average price may be at, or more or less than 100.00.



The meetings covering the proposed Hot Springs-Bell 500-kV line will be held in the Thompson Falls Elementary School, Thompson Falls, Montana, on December 10, 1975, at 7 p.m.; Community Hall, South First Avenue, Sandpoint, Idaho, on December 11, 1975, at 7 p.m.; and at the First Federal Savings and Loan, 401 Front Avenue, Coeur d'Alene, Idaho, on December 12, 1975 at 7 p.m.

In addition to the three public meetings mentioned above, two public information centers will also be set up. The purpose of these public information centers is to answer questions which interested members of the public may have regarding the proposed facilities for the Hot Springs-Bell 500-kV line, to explain to the public BPA's environmental statement/decisionmaking process, and to solicit comments from the public with respect to the environmental impact of the alternatives. These information centers will be open to the public at the Vera Irrigation District, N. 601 Evergreen, Veradale, Washington, on December 8, 1975, between the hours of 4 p.m. and 9 p.m.; and at the Village Motor Inn, 100 Madison Street, Missoula, Montana, on December 9, 1975, between the hours of 5 p.m. and 10 p.m.

All those wishing to comment in writing must do so by January 9, 1976.

WILLIAM H. CLAGETT,  
Assistant Administrator.

OCTOBER 20, 1975.

[FR Doc.75-28781 Filed 10-24-75;8:45 am]

#### Bureau of Land Management

[UTAH 31065]

#### UTAH

#### Proposed Protective Withdrawal and Designation of Lands

The Bureau of Land Management, U.S. Department of the Interior, has filed an application, serial No. Utah 31065, for the withdrawal and designation of lands containing 60 acres described below, from all forms of appropriation under the public land laws including the general mining laws, material sales act and leasing under the mineral leasing laws, pursuant to authority of Executive Order 10355 and closure to the use of off road vehicles pursuant to authority of Executive Order 11644 and 43 CFR 6225.

The designation identifies the Devil's Rock House as being an area having outstanding natural features and provides direction for its protection and management. The Devil's Rock House conforms to Class IV—Outstanding Natural Areas, under the Bureau of Outdoor Recreation System of Classification.

The protective withdrawal, closure, and designation will be to protect the scenic and fragile unique geological features from activities which would damage, destroy or make the Devil's Rock House unsuitable for general public enjoyment.

The Devil's Rock House contains eroded sandstone which has weathered to create pillars, minarets, toadstools and

other fanciful shapes. Geologists theorize that the presence of oil in the sandstone is the reason for the unique pattern of erosion which creates these forms.

Recreational activities such as sightseeing, photography, hiking, geological study, etc., which are compatible with the purposes of an understanding natural area will be allowed.

On or before December 15, 1975 all persons who wish to submit comments, suggestions, or objections, in connection with the proposed withdrawal, may present their views in writing to the Utah State Director, Bureau of Land Management, Department of the Interior, Post Office Box 11505, Salt Lake City, Utah 84111.

If circumstances warrant, public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SALT LAKE MERIDIAN, UTAH  
UINTAH COUNTY

T. 9 S., R. 22 E.,  
Sec. 12, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ .

The area described aggregates 60 acres.

PAUL L. HOWARD,  
State Director, Utah.

OCTOBER 20, 1975.

[FR Doc.75-28900 Filed 10-24-75;8:45 am]

#### DEPARTMENT OF COMMERCE

#### Bureau of the Census

#### ANNUAL SURVEYS IN MANUFACTURING AREA

#### Notice of Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to continue or initiate the annual surveys listed below for the year 1975 and for each year thereafter, under the authority of Title 13, United States Code, Sections 181, 224, and 225. These surveys, most of which have been conducted for many years, are significant in the manufacturing area; and on the basis of information and recommendations received by the Bureau of the Census, the data have significant application to the needs of the public and industry and are not available from non-governmental or other governmental sources.

The establishments covered by these surveys directly account for the bulk of all manufacturing employment. The information to be developed from these surveys is necessary for an adequate measurement of total industrial production. Government agencies need data on the output of these industries. Manufacturers in the industries involved, as well as their suppliers and customers and the general public, have all requested

such data in the interest of business efficiency and stability.

Such surveys, if conducted, shall begin not earlier than November 28, 1975.

Report forms in most instances furnishing data on shipments and/or production and in some instances on stocks, unfilled orders, orders booked, consumption, etc., will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys.

The surveys have been arranged under major group headings shown in the Standard Industrial Classification Manual (1972 edition) promulgated by the Office of Management and Budget for the use of Federal statistical agencies.

#### MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Broadwoven goods finished.  
Narrow fabrics.  
Yarn production.

#### MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS

Gloves and mittens.  
Apparel.  
Brassieres, corsets, and allied garments.

#### MAJOR GROUP 24—LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE

Hardwood plywood.  
Softwood plywood.  
Lumber.

#### MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Pulp, and detailed grades of paper and board.

#### MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Sulfuric acid.  
Industrial gases.  
Inorganic chemicals.  
Pharmaceutical preparations, except biologicals.

#### MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES

Asphalt and tar roofing and siding products.

#### MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

Rubber.  
Plastics products.

#### MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers (by method of construction).

#### MAJOR GROUP 32—STONE, CLAY, AND GLASS

Consumer, scientific, technical, and industrial glassware.  
Fibrous glass.

#### MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Steel mill products.  
Insulated wire and cable.  
Magnesium mill products.  
Iron and steel foundries.

#### MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Commercial steel forgings.  
Steel power boilers.  
Heating and cooking equipment.

#### MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Internal combustion engines.  
Tractors.  
Farm machines and equipment.



Mining machinery and equipment.  
Power driven handtools.  
Air-conditioning and refrigeration equipment.  
Office, computing, and accounting machines.  
Pumps and compressors.  
Selected air pollution control equipment.  
Construction machinery.

**MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES**

Radios, televisions, and phonographs.  
Motors and generators.  
Wiring devices and supplies.  
Switchgear, switchboard apparatus, relays, and industrial controls.  
Selected electronic and associated products.  
Electric housewares and fans.  
Electric lighting fixtures.  
Major household appliances.

**MAJOR GROUP 37—TRANSPORTATION EQUIPMENT**

Aircraft propellers.

**MAJOR GROUP 38—PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC AND OPTICAL GOODS; WATCHES AND CLOCKS**

Selected instruments and related products.  
Atomic energy products and services.

The following list of surveys represents annual supplements of monthly and quarterly surveys and will cover the same establishments canvassed in the monthly or quarterly survey. There will be no duplication of reporting, however, since the type of data collected on the annual supplement will be different from that collected in the more frequent surveys.

**MAJOR GROUP 32—STONE, CLAY, AND GLASS**  
Glass containers.

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments which are not canvassed or do not report in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

**MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS**

Flour milling products.  
Margarine manufacturers'—packaging operations.

**MAJOR GROUP 22—TEXTILE MILL PRODUCTS**

Manmade fiber, woolen, and worsted fabrics.  
Finishing plant report—broadwoven fabrics.  
Piece goods inventories and orders.  
Broadwoven gray goods (cotton, wool, and manmade).  
Consumption of wool and other fibers, and production of tops and noils.  
Carpet and rugs.  
Knit fabric production.

**MAJOR GROUP 25—FURNITURE AND FIXTURES**  
Mattresses and bedsprings.

**MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS**  
Converted flexible packaging products.

**MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS**

Phosphatic fertilizer materials.  
Paint, varnish, and lacquer.

**MAJOR GROUP 32—STONE, CLAY, AND GLASS**

Flat glass.  
Glass containers.  
Refractories.  
Clay construction products.

**MAJOR GROUP 33—PRIMARY METAL INDUSTRIES**

Nonferrous castings.  
Iron and steel foundries.  
Steel inventories. (Consumers and Producers Report)  
Aluminum inventories.  
Copper inventories.

**MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT**

Plumbing fixtures.  
Metal cans.  
Steel shipping drums and pails.  
Closures for containers.

**MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL**

Construction machinery.

**MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES**

Electric lamps.  
Fluorescent lamp ballasts.

**MAJOR GROUP 37—TRANSPORTATION EQUIPMENT**

Aircraft engines.  
Complete aircraft.  
Backlog of orders for aircraft, space vehicles, missiles, engines and selected parts.  
Truck trailers.

The Annual Survey of Manufacturers will be conducted and will call for general statistical data such as employment, payroll, man-hours, capital expenditures, cost of materials consumed, gross book value of fixed assets, rental payments, supplemental labor costs, etc., in addition to information on value of products shipped and quantity data for selected classes of products and quantity and cost of selected fuels used. This survey, while conducted on a sample basis, will cover all manufacturing industries including data on plants under construction but not in operation.

A survey of research and development costs will be conducted also. The data to be obtained will be limited to total research and development costs of work performed by the company, total cost of research and development work performed for the Federal Government, and, for comparative purposes, total net sales and receipts, and total employment of the company.

In addition, a survey on shipments to, or receipts for work done for, Federal Government agencies and their contractors and suppliers is planned. It is designed to provide information on the impact of Federal procurement on selected industries and on the economy of States, standard metropolitan statistical areas, and geographic regions.

The Annual Survey of Oil and Gas will canvass the industry which provides most of the fuel consumed in the United States, as well as a substantial portion of the raw material requirement of many industries. The survey will collect information on exploration, development,

production costs, revenues, expenditures and assets in the crude petroleum and natural gas industry.

The Annual Survey on Pollution Abatement Expenditures is designed to collect from the manufacturing area total expenditures made by industry to abate pollutant emissions. The survey covers current and capital expenditures made by industry to reduce pollution in its air, water or solid forms.

The Survey of Plant Capacity will call for general statistical data such as number of shifts, hours in operation, production workers, production worker man-hours, quantities of materials consumed, quantity of production, and value of production for actual, preferred and practical operating rates, as well as information on the operation rates and the length of time required to reach and to maintain these operating rates. The survey will be done on a sample basis and cover all manufacturing industries.

Copies of the proposed forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of these proposed surveys should be submitted in writing to the Director of the Bureau of the Census on or before November 28, 1975.

Dated: October 22, 1975.

VINCENT P. BARABBA,  
Director,  
Bureau of the Census.

[FR Doc.75-28849 Filed 10-24-75; 8:45 am]

**Bureau of the Census  
SACRAMENTO, CALIFORNIA**

**Corrected Urbanized Area Delineation**

On September 2, 1975, the Bureau of the Census announced a correction to the official delineation of the Sacramento, California Urbanized Area. As a result of this correction, the unincorporated place of Mather, with a population of 7,027 and a land area of 9.3 square miles, as reported in the 1970 census, is now included within the Sacramento, California Urbanized Area.

The definitional criteria developed by the Bureau of the Census to delineate urbanized areas is presented on pages 15202 and 15203 of the FEDERAL REGISTER, Volume 39, No. 85—Wednesday, May 1, 1974.

Listed below are the revised land area figures, population figures and components for the Sacramento, California Urbanized Area. These revisions correct the listings which appear in the U.S. Bureau of the Census publication: 1970, Volume I, Characteristics of the Population Part A, Number of Inhabitants.

Dated: October 22, 1975.

VINCENT P. BARABBA,  
Director, Bureau of the Census.



## Land area in square miles

|                           |       |
|---------------------------|-------|
| Sacramento Urbanized Area | 253.5 |
| Sacramento city           | 98.8  |
| Outside central city      | 154.7 |

## Population of the Sacramento urbanized area: 1970 and 1960

| Component parts                          | 1970      | 1960    |
|------------------------------------------|-----------|---------|
| The area                                 | 1,640,759 | 451,920 |
| Sacramento city                          | 254,413   | 191,667 |
| Outside central city                     | 1,386,346 | 260,253 |
| The area is defined as follows:          |           |         |
| Placer County (part)                     | 21,542    | 13,793  |
| Loomis Basin-Folsom Lake division (part) | 3,231     | 372     |
| Frecklin city                            | 3,039     |         |
| Roseville division                       | 18,311    | 13,421  |
| Roseville city (part)                    | 17,806    | 13,421  |
| Sacramento County (part)                 | 1,593,553 | 415,177 |
| Elk Grove division (part)                | 9,646     | 2,125   |
| Florin (U)                               | 9,646     |         |
| Folsom division (part)                   | 5,810     |         |
| Folsom city                              | 5,810     |         |
| Franklin division (part)                 | 85        | 25,117  |
| Mather division (part)                   | 145,710   | 614     |
| Mather (U)                               | 7,027     |         |
| Rancho Cordova (U)                       | 30,431    |         |
| Natomas division (part)                  | 32        | 7,123   |
| North Highlands division (part)          | 35,610    | 23,666  |
| North Highlands (U)                      | 31,854    | 21,271  |
| Rio Linda division                       | 8,417     | 1,610   |
| Rio Linda (U)                            | 7,524     |         |
| Sacramento division                      | 282,987   | 191,667 |
| Parkway - Sacramento                     |           |         |
| South (U)                                | 28,574    |         |
| Sacramento city                          | 254,413   | 191,667 |
| San Juan division (part)                 | 202,256   | 123,510 |
| Arden-Arcade (U)                         | 82,462    | 73,352  |
| Carmichael (U)                           | 37,625    | 20,455  |
| Citrus Heights (U)                       | 21,760    |         |
| Fair Oaks (U)                            | 11,256    |         |
| Orangethorpe (U)                         | 16,403    |         |
| Yolo County (part)                       | 25,664    | 22,950  |
| East Yolo division (part)                | 25,664    | 22,950  |
| Broderick-Bryte (U)                      | 12,782    |         |
| West Sacramento (U)                      | 12,002    |         |

<sup>1</sup> Indicates changes from the table included in the U.S. Bureau of the Census, Census of Population: 1970, Vol. 1, Characteristics of the Population Pt. A, Number of Inhabitants.

[FR Doc.75-28850 Filed 10-24-75; 8:45 am]

## Domestic and International Business Administration

UNIVERSITY OF WASHINGTON  
MEDICAL SCHOOL, ET AL.Applications for Duty-Free Entry of  
Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(e) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act (40 FR 12253 et seq., 15 CFR 701, 1975) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary

Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00138-33-30950. Applicant: University of Washington Medical School, Department of Biological Structure, Seattle, WA 98195. Article: Freeze Etching Instrument. Manufacturer: Balzers High Vacuum Co., West Germany. Intended use of article: The article is intended to be used for electron microscopic examination of biological materials in the study of the surface of cells and their contained organelles after rapid preservation by freezing and subsequent fracture. Of particular interest is the fine structural characteristics of eggs and spermatozoa both individually and during the process of fertilization. Application received by Commissioner of Customs: October 7, 1975.

Docket number: 76-00157-01-28500. Applicant: University of Alabama in Birmingham, Laboratory of Membrane Biology, University Station, Birmingham, Ala. 35294. Article: PF5 Free Flow Electrophoresis. Manufacturer: Garching Instruments Co., West Germany. Intended use of article: The article is intended to be used to separate tumor cells from a mixture of normal and tumor cells for further diagnostic study. Application received by Commissioner of Customs: October 7, 1975.

Docket number: 76-00158-33-46040. Applicant: Massachusetts General Hospital, Fruit Street, Boston, Massachusetts 02114. Article: Electron Microscope, Model EM 301 and accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of animal and human tissues, cells, and cell organelles as well as similar components of animal and human cells in culture systems. The phenomena to be investigated will include: (1) Basophil/mast cell functions in immunologic reactions and in the control of cancer; (2) Basophil degranulation mechanisms; (3) Basophil granule contents; (4) Macrophage-lymphocyte functions in immunologic phenomena; (5) Cell surface membrane changes in neoplasia, immunologic phenomena, and the inflammatory response. The article will also be used for advanced training in research for post-doctoral fellows. Application received by Commissioner of Customs: October 9, 1975.

Docket number: 76-00160-65-10100. Applicant: University of Virginia, Research Laboratories for the Engineering Sciences, Charlottesville, VA. 22901. Article: Chemical Vapor Deposition Apparatus. Manufacturer: Hermann Schladitz, West Germany. Intended use of article: The article is intended to be used for the study of the deposition of metallic layers and films of metals onto various substrates including glass, plastics and other metals. Structural and microstructural properties of films will be studied in addition to adhesion to the substrates continuity of the films, various cleaning procedures for maximum adhesion and mechanical properties of the coated arti-

cles. The objectives of the study are to determine optimum conditions for applying metallic layers onto various substrates. Application received by Commissioner of Customs: October 9, 1975.

Docket number: 75-00161-33-90000. Applicant: Providence Memorial Hospital, 2001 North Oregon Street, El Paso, Texas 79902. Article: EMI Scanner System with Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used as a scientific tool to localize and pinpoint brain tumors prior to radiation therapy. Various research projects will be undertaken involving differentiation and localization of brain tumors. Comparison of findings with the scanner in relation to arteriography, pneumoencephalography and isotopic brain scanning will be carried out. In addition, the article will be used to teach local physicians interested in neurology and neurosurgery as well as in conjunction with a nursing program. Application received by Commissioner of Customs: October 9, 1975.

Docket number: 76-00162-60-10000. Applicant: Cornell University, Dept. of Food Science & Technology, New York State Agric. Expt. Station, Geneva, NY. 14456. Article: Kjell-Foss Macro Automatic Analyzer. Manufacturer: A/S N. Foss Electric, Denmark. Intended use of article: The article is intended to be used to identify the protein content of food, feed and feedstuffs. The materials to be studied include a market basket type sampling of commercially available animal feeds including processed pet foods, experimentally prepared foods prepared by researchers, fresh fruits, vegetables, and forage crop samples resulting from Station plant breeding programs and other research samples submitted for protein analysis.

Application received by Commissioner of Customs: October 9, 1975.

Docket number: 76-00163-33-46040. Applicant: Veterans Administration Hospital, 3801 Miranda Avenue, Palo Alto, California 94304. Article: Electron Microscope, Model HS-9 and 70mm Roll Film Camera. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for the examination of DNA macromolecules from bacteria and animal cell sources to gain a better understanding of the organization and structure of animal cell genes. The article will also be used to teach the course Medicine 405 in which instruction in the molecular biology of hematological diseases is taught to undergraduate medical students. In addition, the machine will be widely used for the instruction of graduate fellows and Physicians who are training for careers in academic medicine and research. Application received by Commissioner of Customs: October 9, 1975.

Docket number: 76-00164-65-46040. Applicant: Rensselaer Polytechnic Institute, Materials Engineering Department, Troy, New York 12181. Article: Electron Microscope, Model JEM 100C. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is in-



tended to be used in research concerned with the investigation of the austenite variables of composition, defect structure, stacking fault energy, process history, and properties as coupled phenomena, and the relationship of these variables to the structure, transformation kinetics, and properties of the resultant martensite. Studies will be carried out in the area of corrosion fatigue of aluminum alloys and copper alloys requiring extensive transmission electron microscopy to determine changes in deformation substructures which accompany corrosive reactions. It is also planned to study phase separation in glasses and the graphite layer structure at the surface of high performance graphite fibers. Other studies to be carried out include: (1) the effects of localized strain fields on the mechanical behavior of two phase alloys, and (2) grain boundary precipitation studies. The article will also be used for demonstration to students taking course in which electron microscopy is an important instrumentation technique as it provides significant data for the course content. Application received by Commissioner of Customs: October 9, 1975.

Docket number: 76-00165-65-46040. Applicant: Rensselaer Polytechnic Institute, Materials Engineering Department, Troy, New York 12181. Article: Electron Microscope, Model JEM 100S. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used in research concerned with the investigation of the austenite variables of composition, defect structure, stacking fault energy, process history, and properties as coupled phenomena, and the relationship of these variables to the structure, transformation kinetics, and properties of the resultant martensite. Studies will be carried out in the area of corrosion fatigue of aluminum alloys and copper alloys requiring extensive transmission electron microscopy to determine changes in deformation substructures which accompany corrosive reactions. It is also planned to study phase separation in glasses and the graphite layer structure at the surface of high performance graphite fibers. In addition, the article will be used as a teaching instrument to expose students to the fundamentals of transmission electron microscopy in the courses: Structure and Properties of Materials II, Chemical Instrumentation, Electron Beam Analysis Techniques. The article will also be used in the Course Electron Microscopy of Crystalline Materials to instruct students in the use of the microscope and its accessories. Application received by Commissioner of Customs: October 9, 1975.

Docket number: 76-00166-00-43000. Applicant: University of South Carolina, Department of Geology, Columbia, S.C. 29208. Article: High Temperature Spinner & Furnace and Core Attachment. Manufacturer: Digico, United Kingdom. Intended use of article: The article is intended to be used for measurements of magnetic remanence during the process

of heating; that is, monitor the changes in direction of the magnetization during heating. Application received by Commissioner of Customs: October 9, 1975.

Docket number: 76-00167-33-90000. Applicant: Tucson Medical Center, 5301 E. Grant Road, Tucson, Arizona 85712. Article: EMI Scanner System with Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for non-invasive and detailed examination of the brain where indications for the examination consist of headache, brain tumor suspect, seizures, head injuries, hydrocephalus, dementia, and stroke. The article will also be used for training residents in the interpretation of EMI scans. Application received by Commissioner of Customs: October 9, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,

Special Import Programs Division.

[FR Doc.75-28770 Filed 10-24-75;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[Docket No. 75P-0166]

### DRAINED WEIGHT OF CANNED FRUITS AND VEGETABLES

#### Availability of Proposed Regulations for Label Declaration of Drained Weight

Notice is hereby given that a proposal to require declaration of drained weight on labels of certain canned fruits and vegetables was signed by the Acting Commissioner of Food and Drugs on October 20, 1975.

The proposal, on the Commissioner's initiative, includes a summary of the comments received in response to the Consumers Union petition and related matters published in the FEDERAL REGISTER of December 5, 1973 (38 FR 33512). The proposal would require label declaration of drained weight on canned fruits and vegetables and would establish fill-of-container requirements based on minimum average drained weight values for most of these foods.

Publication of the Commissioner's proposal in the FEDERAL REGISTER is being delayed because of the time required by the printer for typesetting the extensive tabular material contained therein. In the meantime, the proposal may be viewed by the public in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during regular business hours, Monday through Friday.

Dated: October 20, 1975.

SHERWIN GARDNER,  
Acting Commissioner  
of Food and Drugs.

[FR Doc.75-28784 Filed 10-24-75;8:45 am]

## Health Services Administration INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of December 1975:

Name: Interagency Committee on Emergency Medical Services.

Date and Time: December 8, 1975, 9:00 a.m.

Place: Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852. Open for entire session.

Purpose: The Committee provides for the communication and exchange of information necessary to maintain the coordination and effectiveness among such Federal programs and activities and makes recommendations to the Secretary respecting the administration of grants and contracts under Title XII, including making regulations for the emergency medical services systems program.

Agenda: The agenda will include a preview of fiscal year 1976 grant funding expectations, and reports by member agencies.

The meeting is open to the public for observation and participation. Anyone wishing to obtain a roster or other relevant information should contact John D. Reardon, Room 320, Prince George's Center-PCB #3, 6525 Belcrest Road, West Hyattsville, Maryland 20782, Telephone (301) 436-6284.

Public seating is limited to forty (40). Please contact at least 72 hours before the meeting.

Agenda items are subject to change as priorities dictate.

Dated: October 21, 1975.

WILLIAM H. ASPDEN, JR.,  
Acting Associate Administrator  
for Management.

[FR Doc.75-28852 Filed 10-24-75;8:45 am]

## National Institutes of Health CLINICAL APPLICATIONS AND PREVENTION ADVISORY COMMITTEE Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, National Heart and Lung Institute, November 13, 1975, Landow Building, Conference Room C418, Bethesda, Maryland.

This meeting will be open to the public on November 13, from 8:30 a.m. to 10 a.m. when the current progress of the Multiple Risk Factor Intervention Trial will be discussed. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552(b) (4), and 552(b) (6), Title 5 U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public from 10 a.m. to adjournment, for the review of contracts related to the Multiple Risk Factor Intervention Trial and the Aspirin-Myocardial Infarction Study. These proposals contain information of a proprietary or confi-



dential nature, including technical information, financial data, such as salaries of research personnel and personal information concerning individuals associated with the contract proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart and Lung Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. William J. Zukel, Executive Secretary of the Committee, Landow Building, Room C809, phone (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: October 23, 1975.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.

[FR Doc.75-29006 Filed 10-24-75; 8:45 am]

#### Office of Education

#### NATIONAL ADVISORY COUNCIL ON ETHNIC HERITAGE STUDIES

#### Public Meeting

Notice is hereby given, pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), that a meeting of the National Advisory Council on Ethnic Heritage Studies will be held November 20-21, 1975, from 9 a.m. to 4:30 p.m. in Room 4173, Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C.

The National Advisory Council on Ethnic Heritage Studies was established by Title XI of the Elementary and Secondary Education Act of 1965, as amended. The Council is governed by the provisions of Part D of the General Education Provisions Act and of the Federal Advisory Committee Act (Pub. L. 92-463). The Council shall advise the Commissioner concerning matters of general policy arising from the administration of programs in ethnic heritage studies. Functions may include determination of needs and objectives of programs in the field and provisions of support in the implementation nationally of program goals of ethnic heritage studies.

The meeting of the Council shall be open to the public. The meeting will be devoted to sub-committee reports and recommendations, and a further delineation of the functions of the Council and of its sub-committees.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of Chief of the Ethnic Heritage Studies Branch, Division of International Education, located in Room 3919 ROB #3, 7th & D Streets SW., Washington, D.C.

Signed at Washington, D.C. on October 22, 1975.

WILLIAM H. MARTIN,  
Chief.

Ethnic Heritage Studies Branch.

[FR Doc.75-28790 Filed 10-24-75; 8:45 am]

#### TITLE I AUDIT APPEAL

#### Approval of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972), an application for an appeal before the Board has been received from the State of Arkansas and it has met the jurisdictional requirements of Section 5 of the Notice establishing the Board. The appeal involves the allowability of specified expenditures of funds under Title I of the ESEA during the period of September 10, 1965, through June 30, 1970, by the State Education Agency. The amount involved in the subject audit appeal is \$10,157. The local education agencies involved are Marvell and Fort Smith. The Audit Control Number is ACN: 20005-06.

The prehearing conference will be held at 10:30 a.m. on December 3 and 4, 1975, in Room 4173, 400 Maryland Avenue SW., Washington, D.C.

Section 7(c) of the Notice setting up the board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervenor has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before November 3, 1975.

(20 U.S.C. 241a, 1232c)

Dated: October 21, 1975.

(Catalog of Federal Domestic Assistance Numbers 13.427, Educationally Deprived Children—Handicapped (Pub. L. 89-313); 13.428, Educationally Deprived Children—Local Educational Agencies; 13.429, Educationally Deprived Children—Migrants; 13.430, Educationally Deprived Children—State Administration; 13.431, Educationally Deprived Children in State Administered Institutions Serving Neglected or Delinquent Children.)

T. H. BELL,

U.S. Commissioner of Education.

[FR Doc.75-28756 Filed 10-24-75; 8:45 am]

#### TITLE I AUDIT APPEAL

#### Date of Prehearing Conference

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972), a date has been established for the conduct of a prehearing conference requested by the State of California.

On November 12, 1975, therefore a prehearing conference will be held regarding the appeal of the State of California with respect to certain findings made under audit ACN: 30012-09, Docket 4-(15)-75. The amount involved is \$258,422. The local education agencies involved are Redding, Corcoran, and Lennox. State administration of Title I, ESEA, is also at issue.

The Conference will begin at 10:30 a.m. and will be held in Room 4173, 400 Maryland Avenue, S.W., Washington, D.C.

(20 U.S.C. 241a, 1232c)

Dated: October 22, 1975.

(Catalog of Federal Domestic Assistance Numbers 13.427, Educationally Deprived Children—Handicapped (P.L. 89-313); 13.428, Educationally Deprived Children—Local Educational Agencies; 13.429, Educationally Deprived Children—Migrants; 13.430, Educationally Deprived Children—State Administration; 13.431, Educationally Deprived Children in State Administered Institutions Serving Neglected or Delinquent Children.)

T. H. BELL,

U.S. Commissioner of Education.

[FR Doc.75-29000 Filed 10-24-75; 8:45 am]

#### TITLE I—AUDIT APPEAL

#### Dates of Prehearing Conferences

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972), a date has been established for the conduct of a prehearing conference requested by the State of California.

On November 13, 1975, therefore, a prehearing conference will be held regarding the appeal of the State of California with respect to certain findings made under audit ACN: 40015-09, Docket 3-(14)-75. The amount involved in subject audit appeal is \$292,207. The Local Education Agency involved is Pasadena. State administration of Title I is also at issue.

The Conference will begin at 10:30 a.m. and will be held in Room 4173, 400 Maryland Avenue, S.W., Washington, D.C.

(20 U.S.C. 241a, 1232c)

Dated: October 22, 1975.

(Catalog of Federal Domestic Assistance Numbers 13.427, Educationally Deprived Children—Handicapped (P.L. 89-313); 13.428, Educationally Deprived Children—Local Educational Agencies; 13.429, Educationally Deprived Children—Migrants; 13.430, Educationally Deprived Children—State Administration; 13.431, Educationally Deprived Chil-



dren in State Administered Institutions Serving Neglected or Delinquent Children.)

T. H. BELL,

U.S. Commissioner of Education.

[FR Doc.75-29001 Filed 10-24-75;8:45 am]

# **NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION ADMINISTRATIVE COMMITTEE**

## **Public Meeting**

Notice is hereby given, pursuant to PL-92-463, that a meeting of the National Advisory Council on Vocational Education Administrative Committee will be held on November 13, 1975 from 2:30 to 4:30 p.m., local time and on November 14, 1975 from 10:15 a.m. to 4:00 p.m., local time at the Muehlebach Hotel, Kansas City, Missouri.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the Administration of preparation of general regulations for, and operation of, vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act; including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and public and distribute the results thereof.

The meeting of the Council Administrative Committee shall be open to the public. The proposed agenda includes: November 13-14, 1975: Discussion of Committee and staff activities.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425-13th Street, N.W., Washington, D.C. 20004.

Signed at Washington, D.C. on October 24, 1975.

REGINALD PETTY,  
Executive Director.

[FR Doc.75-29060 Filed 10-24-75;9:40 am]

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Federal Disaster Assistance Administration

[FDAA-487-DR; NFD-309]

### **NEW YORK**

#### **Amendment to Notice of Major Disaster**

Notice of Major Disaster for the State of New York, dated October 2, 1975, is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by

the President in his declaration of October 2, 1975:

The County of:

Tompkins.

Dated: October 20, 1975.

THOMAS P. DUNNE,  
Administrator, Federal Disaster  
Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.75-28887 Filed 10-24-75;8:45 am]

## **DEPARTMENT OF TRANSPORTATION**

### **Office of Pipeline Safety Operations**

#### **TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE**

##### **Notice of Advisory Committee Meeting**

The Technical Pipeline Safety Standards Committee will meet at 9 a.m. on November 19 and 20, 1975, in Conference Rooms 2230 and 2232 of the Department of Transportation Headquarters Building (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590.

The Committee is established under Section 4 of the Natural Gas Pipeline Safety Act of 1968. The duties of the Committee are to review and report on the technical feasibility, reasonableness, and practicability of proposed Federal gas pipeline safety standards and amendments thereto. Proposed amendments to safety standards in 49 CFR Part 192 on the agenda for this meeting concern the following:

(1) Emergency plans; (2) Protecting cast-iron pipelines; (3) Documents incorporated by reference; (4) Definition of the term "gathering line."

The meeting is open to the public. Persons desiring to attend the meeting should contact Ms. Barbara Smith, Office of Pipeline Safety Operations, 2100 Second Street, S.W., Washington, D.C. 20590, telephone (202) 426-2392, prior to 5 p.m. on November 18, 1975.

This notice is issued under Section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).

Issued in Washington, D.C., on October 17, 1975.

CESAR DELEON,  
Acting Director, Office of  
Pipeline Safety Operations.

[FR Doc.75-28842 Filed 10-24-75;8:45 am]

## **CIVIL AERONAUTICS BOARD**

[Docket Nos. 27844 and 27924]

### **CARIBBEAN INTERNATIONAL AIRWAYS LTD. AND LAKER AIRWAYS LTD.**

#### **Change of Hearing Room**

In the matter of Caribbean International Airways Limited and Laker Airways Limited for foreign air carrier permits.

Notice is hereby given that the hearing in the above-captioned case (40 FR 47827, October 10, 1975) scheduled to be

held in Room 911 of the Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., commencing at 9:30 a.m. (local time), Tuesday, November 4, 1975, has been transferred to Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., at the same time.

Dated at Washington, D.C., October 21, 1975.

[SEAL]

BURTON S. KOLKO,  
Administrative Law Judge.

[FR Doc.75-28888 Filed 10-24-75;8:45 am]

[Docket No. 21448; Order No. 75-10-91]

## **SPOKANE-MONTANA POINTS**

### **Order Regarding Service Investigation**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22nd day of October, 1975.

By Order 69-9-113, September 18, 1969 and 69-12-33, December 5, 1969, the Board instituted the *Spokane-Montana Points Service Investigation* to consider (1) the amendment of Frontier's then multi-segment certificate so as to (a) extend segment 15 beyond Missoula to the new terminal point Spokane; (b) extend segments 4 (b) and (c) beyond Billings to the new terminal point Spokane; (c) add the new intermediate point Kalispell to segments 15 and/or 4; or (d) extend segment 15 from the coterminous point Great Falls to the new intermediate point Kalispell, and the new coterminous point Spokane; (2) the amendment of Hughes Airwest's then multi-segment certificate for route 76 so as to extend segment 4(a) by adding Missoula and Billings as a new intermediate point and Salt Lake City and Denver as new coterminous points; (3) the amendment of Hughes Airwest's certificate for route 76 so as to delete the portion of segment 4(a) extending between Spokane and Great Falls; and (4) the amendment of Northwest Airlines' certificate for route 3 so as to authorize service between Spokane and Denver via Missoula and Bozeman, Montana and Casper, Wyoming and between Spokane and Salt Lake City via Bozeman and Missoula.

Since this proceeding was instituted the route systems of Airwest and Frontier have been modified by route realignment so that the carriers' systems are now quite different from what they were when the case was instituted. Thus, grant to Frontier of access to Spokane under Frontier's current single-segment certificate and grant to Airwest of access to Denver under Airwest's realigned certificate would permit, unless otherwise restricted, many more competitive service possibilities than were contemplated by the original instituting orders. In addition, Airwest's realignment has resulted in improved access to Kalispell and Great Falls which may have modified the desirability of considering the transfer of Airwest's Spokane-Kalispell-Great Falls authority to Frontier. Coupled with the route alterations, the passage of time may have intervened to modify the ap-



plicant carriers' route expansion programs.

Under all of these circumstances, rather than proceeding with the case as presently framed, we believe that it would be desirable to receive comments from interested carrier and civic participants with respect to the further disposition of this case in light of the applicant carriers' current route systems, and in light of the present service needs of the markets and cities in issue. Specifically, interested persons are invited to submit comments within 30 days of this order, with respect to: (1) whether the instant case can, and, if so, should go forward with the issues as framed by Orders 69-9-113 and 69-12-33; (2) whether the investigation or parts thereof as instituted should be terminated and some or all of the underlying applications be dismissed without prejudice; or (3) whether and to what extent the issues in the proceeding should be modified.

We expect that all comments will set forth fully all policy, legal and economic bases in support of the recommended courses of action.

Accordingly, it is ordered, That:

1. Interested persons are directed to submit comments within 30 days of this order with respect to:

a. Whether the instant case can, and, if so, should go forward with the issues as framed by Orders 69-9-113 and 69-12-33;

b. whether the proceeding or parts thereof as presently instituted should be terminated and some or all of the underlying applications be dismissed without prejudice; and

c. whether and to what extent the issues in the proceeding should be modified; and

2. Answers to the comments submitted pursuant to paragraph 1 above, shall be filed 15 days thereafter.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc.75-28889 Filed 10-24-75;8:45 am]

## COMMISSION ON CIVIL RIGHTS WYOMING ADVISORY COMMITTEE

### Cancellation of Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) to this Commission, originally scheduled for October 25, 1975 has been cancelled.

Dated at Washington, D.C., October 22, 1975.

ISAIAH T. CRESWELL, JR.,  
Advisory Committee  
Management Officer.

[FR Doc.75-28819 Filed 10-24-75;8:45 am]

## DELAWARE RIVER BASIN COMMISSION

### NOTICE OF PUBLIC HEARING

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, November 5, 1975, commencing at 2 p.m. The hearing will be held in Room 1600 of the Municipal Services Bldg., 15th and Kennedy Blvd., Philadelphia. The subject of the hearing will be applications for approval of the projects listed below. The Commission will consider these applications as proposed amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Monroe County General Authority (D-74-41 CP-rev.)*. Revisions to the Eastern Metropolitan Area Sewerage Plan serving the Boroughs of Stroudsburg and East Stroudsburg and portions of adjacent townships in Monroe County, Pa. The existing Stroudsburg treatment plant will be phased out. The present East Stroudsburg plant will be upgraded, and a secondary treatment plant will be constructed at the confluence of Brodhead Creek and the Delaware River.

2. *Borough of Norristown (D-72-29 CP-rev.)*. A sewer interceptor project serving the Borough of Norristown and several adjacent municipalities in Montgomery County, Pa. The 1.3-mile interceptor will ultimately convey an average of 10.5 million gallons per day of sewage to the existing Norristown sewage treatment plant.

3. *Village of Delhi (D-75-70 CP)*. A well water supply project to augment public water supplies in the Village of Delhi, Delaware County, N.Y. Two wells with a combined yield of about one million gallons per day will be utilized to replace an existing surface use from Steel Brook reservoir.

4. *Delaware Water Company, Inc. (D-75-104 CP)*. A well water supply project to increase public water supplies in the company's service area in Delaware Township, Pike County, Pa. The pumping capacity of Wells Nos. 1 and 2 will be increased to meet peak day demands at the Wild Acres development area. The two wells will be limited to a combined yield of 5 million gallons per month.

5. *New Jersey Division of Fish, Game and Shellfisheries (D-73-195 CP)*. A well water supply system to serve the Division's Pequest fish hatchery facility in Warren County, N.J. The well is expected to yield about 10 million gallons per day.

6. *Delmarva Power and Light Co. (D-75-38)*. An overhead transmission line crossing of the Killcohook National Wildlife Refuge in New Castle County, Del., and Salem County, N.J. The company's 500-KV transmission line will extend across the Delaware River from a point just north of Red Lion Creek and then across the Killcohook Refuge.

7. *Keystone Lamp Manufacturing Corp. (D-75-114)*. An industrial waste-

water discharge at the company's plant in Washington Township, Lehigh County, Pa. The facility will provide substantial removal of materials from an industrial wastewater flow of 40,000 gallons per day. Treated effluent will discharge to an unnamed tributary of the Lehigh River.

8. *Berks Products Corp. (D-75-125)*. An industrial wastewater discharge at the company's plant in Oley Township, Berks County, Pa. A system of lagoon storage and discharge to the ground will remove practically all suspended solids from a wastewater flow of 246,000 gallons per day.

9. *Superior Tube Co. (D-74-199)*. A cooling water discharge at the company's manufacturing facilities in Lower Providence Township, Montgomery County, Pa. Cooling water ponds and recirculation are utilized. A summertime overflow of approximately one million gallons per day will discharge to Perklomen Creek.

10. *Everett Walker (D-75-80)*. A well water supply project to provide irrigation water on the subject farm in Pittsgrove Township, Salem County, N.J. The facility is expected to yield 300,000 gallons per day.

11. *Joseph Giannotti (D-75-86)*. A well water supply project to provide irrigation water on the subject farm in Franklin Township, Gloucester County, N.J. The new facility is expected to yield 200,000 gallons per day.

Documents relating to the items on this hearing notice may be examined at the Commission's offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing.

W. BRINTON WHITALL,  
Secretary.

OCTOBER 17, 1975.

[FR Doc.75-28760 Filed 10-24-75;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-33000/331 (FRL 447-4)]

### NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

#### Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c)(1) (D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before December 29, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after



October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after December 29, 1975.

Dated: October 20, 1975.

JOHN B. RITCH, Jr.,  
Director,  
Registration Division.

#### APPLICATIONS RECEIVED (OPP-33000/331)

EPA Reg. No. 239-2363. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO ISOTOX LINDANE SPRAY NO. 200. Active Ingredients: Lindane-Gamma Isomer of Benzene Hexachloride 20%; Aromatic Petroleum Derivative Solvent 59%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added uses. PM15

EPA Reg. No. 11273-11. Sandoz Wander Inc., Crop Protection Dept., PO Box 1489, Homestead FL 33030. THURICIDE-16B. Active Ingredients: *Bacillus thuringiensis* Berliner, potency of 3,430 International Units (at least 5 million viable spores) per milligram 0.60%; Xylene 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM17

EPA File Symbol 9897-RR. Star Chemical Co., 2530 NW 77th St., Miami FL 33147. SF-111 INDUSTRIAL WATER COOLING TOWER ALGAECIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 30993-R. Tarson Chemical and Supply Co., 654 Burnet Ave., Syracuse NY 13206. ALGA-RID SWIMMING POOL ALGAECIDE. Active Ingredients: Alkyl (C14 80%, C12 25%, C16 15%) Dimethyl Benzyl Ammonium Chloride 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA Reg. No. 876-203. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. VELSICOL WEEDMASTER. Active Ingredients: Dimethylamine salt of dicamba (3,6-dichloro-o-anisic acid) 12.37%; Dimethylamine salts of related acids 1.53%; Dimethylamine salt of 2,4-dichlorophenoxyacetic acid 87.17%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM25

[FR Doc.75-28619 Filed 10-21-75;8:45 am]

[FRL 447-6; OPP-00016]

#### PESTICIDE PROGRAMS

Availability of Pesticidal Active Ingredient Sample Used in Analysis of Reregistration Costs in "Economic Impact of Proposed Guidelines for Registering Pesticides in the United States"

On August 22, 1975, the Environmental Protection Agency (EPA) published a document entitled "Economic Impact of Proposed Guidelines for Registering Pesticides in the United States" in the FEDERAL REGISTER (40 FR 36798).

One portion of this analysis was concerned with the one-time incremental costs associated with the reregistration of existing pesticide products. In order to carry out this economic analysis, a preliminary examination of a sample of 641 active ingredients (representing the total of approximately 1400 active ingredients, including salts and esters), was made to determine which types of additional data would be required during the reregistration process. Although waivers of data requirements can only be issued in accordance with Section 162.8(a)(3) of the registration regulations (40 FR 28242), this preliminary examination indicated that several such waivers may be appropriate. Any such anticipated waivers of data requirements for these 641 active ingredients were taken to be representative of the total of 1400 active ingredients. As was pointed out in the economic impact analysis, "This figure represents an overestimate, because the active ingredients in the sample comprise all currently registered products with food tolerances and most significant disinfectants, rodenticides, and fungicides. These sampled ingredients are active ingredients with more stringent test requirements than the remainder of active ingredients which were not included in the sample. Thus, the projected number of tests required is conservative in the upward direction."

Notice is hereby given that a copy of the list setting forth this preliminary analysis of data requirements for 641 active ingredients is available for public inspection in the U.S. Environmental Protection Agency Public Information Reference Unit, Room 2922 (EPA Library), 401 M St. SW., Washington D.C. 20460, as well as in the ten Regional Offices of the EPA and in the office of the Federal Register Section, Technical Services Division, Office of Pesticide Pro-

grams, Room 401, East Tower, 401 M St. SW., Washington D.C. 20460.

Dated: October 21, 1975.

JOHN T. RHETT,  
Acting Assistant Administrator  
for Water and Hazardous Ma-  
terials.

[FR Doc.75-28753 Filed 10-24-75;8:45 am]

[447-7; OPP-42004]

#### STATE OF SOUTH CAROLINA

##### Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136) and 40 CFR Part 171 (39 FR 36446 (October 9, 1974) and 40 FR 11698 (March 12, 1975)), the Honorable James B. Edwards, Governor of the state of South Carolina, has submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingency approval is being requested pending promulgation of regulations implementing the South Carolina Pesticide Control Act signed into law by Governor Edwards June 4, 1975. Copies of the new law are attached to the plan.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region IV, to approve this plan on a contingency basis.

A summary of this plan follows. The entire plan, together with all attached appendices (except for sample examinations), may be examined during normal business hours at the following locations:

Room 214, Barre Hall, Clemson University, Clemson, S.C. 29631 (Division of Regulatory and Public Service Programs (803) 656-3006).

Room 110, 1421 Peachtree St. NE, Atlanta, Georgia 30309 (Pesticides Branch, Air & Hazardous Materials Division, EPA, Region IV (404) 526-3222).

Room 401, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460 (Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA (202) 755-4854).

#### SUMMARY OF SOUTH CAROLINA STATE PLAN

The Division of Regulatory and Public Service Programs of Clemson University has been designated as the state lead agency for the administration of the pesticide applicator certification program including enforcement activities. The South Carolina Pesticide Advisory Committee shall advise the Director on any or all problems relating to the use and application of pesticides.

Cooperating agencies include the State Cooperative Extension Service, South Carolina Department of Health and Environmental Control, and South Carolina Aeronautics Commission. The Extension Service will be responsible for the applicator certification training courses, assisting the lead agency in



preparation of examinations, and distribution of applicator training materials. The South Carolina Department of Health and Environmental Control will assist the lead agency in development of regulations relating to storage and disposal of pesticides and pesticide containers and reporting pesticide incidents. The South Carolina Aeronautics Commission will assist the Extension Service and lead agency in certification training programs, examination preparation, and licensing of aerial applicators.

Legal authority for the program is contained in the South Carolina Pesticide Control Act (Act No. 220 of the 1975 Acts and Joint Resolutions of the General Assembly of the state of South Carolina) and Section 2-55 of the South Carolina Code of Laws (South Carolina Aeronautics Commission Regulations relating to aerial applicators).

The plan indicates that the State lead agency and cooperating agencies have or will have sufficient qualified personnel and funds necessary to carry out the proposed programs. The funding in support of this program for the fiscal year 1976 is \$404,921.

The State estimates that 3,550 commercial applicators and 50,000 private applicators will need to be certified. All certified applicators will be furnished certificates containing all necessary information, to present to the dealer at the time of restricted use pesticide purchase.

The State lead agency will submit an annual report to EPA by March 1 of each year and special reports as required.

In addition to the commercial applicator categories listed in 40 CFR 171.3 one new category is proposed: Aerial. Training leading to certification in this category will be sufficiently broad and intensive as to satisfy the minimum standards of EPA categories:

- (1) Agricultural Pest Control.
- (2) Forest Pest Control.
- (6) Right-of-Way Pest Control.

Aerial applicators desiring to apply restricted use pesticides in aquatic environments will be required to satisfy the EPA minimum standards for category 5 as listed in 40 CFR 171.3: Aquatic Pest Control.

New subcategories proposed are as follows:

- (7) Industrial, Institutional, and Structural Pest Control.
- (a) General.
- (b) Fumigation.

The South Carolina Pesticide Control Act divides the FIFRA commercial applicator categories as listed in 40 CFR 171.3 into two principal classes: "Commercial Applicators" and "Non-Commercial Applicators." The South Carolina Pesticide Control Act defines a "commercial applicator" as "a person engaged in the business of using or supervising the use of any restricted use pesticide on the property of another." In a subsequent paragraph, a "non-commercial applicator" is defined as "a person (including officials or employees

of Federal, State or local government) who uses or supervises the use of any restricted use pesticide who is not a private applicator (whether or not he is a private applicator with respect to some uses) or a commercial applicator." The non-commercial applicator class was set up for the purpose of removing fee and financial liability requirements.

In order to become certified, commercial and non-commercial applicators must pass a written examination covering the standards of competency for the appropriate category(s), as well as the general standards applicable to all categories (40 CFR 171.4(b) and 171.6). The examinations will be administered by lead agency personnel on at least a quarterly basis in central locations throughout the State.

Aerial applicators were trained and tested by the Cooperative Extension Service and lead agency during February 1975. All aerial applicators who passed this test in 1975 will be certified to use restricted use pesticides upon meeting the remaining requirements of the South Carolina Pesticide Control Act (fees and financial liability). Such certification will be limited to FIFRA categories 1, 2, and 6 as explained above unless additional training and examination procedures are met.

Persons under FIFRA category 7 (Industrial, Institutional, Structural and Health Related Pest Control) have been trained and tested during three (3) sessions in 1975. All persons who passed the examination offered at the sessions will be certified to use, or supervise the use of, restricted use pesticides under subcategory (a) upon meeting the remaining requirements of the South Carolina Pesticide Control Act (fees and financial liability).

Private applicators will be certified by satisfactorily completing a training course (which will include study questions designed to reinforce the learning process) conducted by County Extension Agents. The training will be based on EPA private applicator standards (40 CFR 171.5 and 171.6) with the EPA private applicator manual being used. If sufficient funds are available, an auto-tutorial system (strip film or slides, together with a tape and study questions based on the EPA manual) will be provided in the County Extension Agent's office. For those who desire to be certified by a written or oral examination rather than attend a training course, the lead agency field agents will provide the EPA core manual as study material, and subsequently offer the tests.

Private applicators with poor reading comprehension or who cannot read may have someone else read the EPA manual to them, and then take an oral test administered by the lead agency. Alternatively, they may be tutored by the County Extension Agent or lead agency personnel, with subsequent discussion of review questions. Certification for non-readers will be limited to the pesticide product(s) for which the private applicator has demonstrated competency. In

the future, as needed, the County Extension Agent or lead agency personnel will make personal contact with the non-reader applicator to inform him of additional information on the pesticide product(s) he is certified to use.

Sample examinations and review questions are attached to the plan, as provided for by 40 CFR 171.7(e) (1) (i) (D) and (ii) (C). However, in view of the need to preserve the confidentiality of the examinations, the state of South Carolina has requested that the examinations not be made available for public inspection. The Agency agrees with this position, and has removed the sample examinations from the public inspection copies of the plan.

The South Carolina State Plan also indicates that within 60 days of the final approval of the Government Agency Plan (GAP) by EPA, a statement concerning acceptance of GAP qualified Federal employees will be forwarded for inclusion in the State Plan.

State plans for states adjoining South Carolina are not sufficiently developed to properly address the issue of reciprocity; when such are considered, any reciprocal agreements will be submitted as amendments to South Carolina's State Plan.

Other regulatory activities listed in the State Plan which will supplement the South Carolina certification program are State registration, inspection, and sampling of pesticide products. All dealers handling restricted use pesticides will be trained, tested, and licensed and records will be subject to inspection by the lead agency.

Duration of certification for commercial applicators, private applicators, and dealers will be four years. Licenses (as opposed to certification) will have to be renewed on an annual basis. The lead agency will evaluate changing technology annually and updated information will be mailed to all applicators, with personal contact made as needed. Specific recertification requirements will be imposed which must be satisfied at the end of the fourth year from certification. The requirement contemplated by the State is attendance at a formalized training course approved by the lead agency.

Enforcement of the South Carolina certification program will be carried out by inspectors who will spot check commercial and private applicators to insure that they comply with State and Federal laws and regulations. They will perform regular inspections and follow up reports of suspected violations.

#### PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the state of South Carolina to the Chief, Pesticides Branch, Region IV, Environmental Protection Agency, Room 110, 1421 Peachtree Street, NE., Atlanta, Georgia 30309. The comments must be received on or before November 28, 1975 and should bear the identifying notation (OPP-42004). All written comments filed pursuant to this no-



tice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m., Monday through Friday.

October 17, 1975.

JACK E. RAVAN,

Regional Administrator, Region IV.

[FR Doc.75-28754 Filed 10-24-75; 8:45 am]

[FRL 440-2; PF18]

## FOOD ADDITIVE PETITIONS

### Notice of Filing

The Department of the Army, Office of the Chief of Engineers [DAEN-CWO-R], Washington DC 20314, has submitted a petition (FAP 6H5104) to the Environmental Protection Agency which proposes the establishment of a food additive regulation permitting the use of the herbicide and plant regulator 2,4-dichlorophenoxyacetic acid (2,4-D) in potable water with a tolerance limitation of 0.1 part per million. These residues would result from the application of the dimethylamine salt of 2,4-D in water hyacinth control programs conducted by the Corps of Engineers or other Federal, State, or local public agencies in ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers and streams that are quiescent or slow moving.

Notice of this submission is given pursuant to the provisions of section 409 (b) (5) of the Federal Food, Drug, and Cosmetic Act. Interested persons are invited to submit written comments on the petition referred to in this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments should be submitted as soon as possible and should bear a notation indicating the petition number "FAP 6H5104". Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m., Monday through Friday.

Dated: October 22, 1975.

MARTIN H. ROGOFF,  
Acting Director,  
Registration Division.

[FR Doc.75-29048 Filed 10-24-75; 8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[FCC 75R-387; Docket Nos. 20407, 20408, 20409; File Nos. BP-19047, 20410, 20412; File No. BP-19047, BP-19079, File No. BP-19080, BP-19081; File No. BP-19081, BP-19086]

### GILBERT BROADCASTING CORP., ET AL. Memorandum Opinion and Order Enlarging Issues

In re applications of Gilbert Broadcasting Corporation, Newark, New Jer-

sey; Community Group for North Jersey Radio, Inc., Newark, New Jersey; Sound Radio, Inc., Newark, New Jersey; Fidelity Voices, Inc., Newark, New Jersey; Venture III Corporation, Newark, New Jersey; for construction permits.

1. The Chief of the Broadcast Bureau, acting pursuant to delegated authority, designated the above-captioned mutually exclusive applications for consolidated hearing by Order, 40 FR 18495, published April 28, 1975. Now before the Review Board is a joint petition to enlarge issues, filed July 15, 1975, by Sound Radio, Inc. (Sound), Community Group for North Jersey Radio, Inc. (Community), Fidelity Voices, Inc. (Fidelity) and Venture III Corporation (Venture), seeking the addition of a community ascertainment issue against Gilbert Broadcasting Corporation (Gilbert), and various other issues inquiring into the conduct of certain of Gilbert's principals in connection with their former employment with WNJR Radio Company, the interim operator of Station WNJR, Newark, New Jersey,<sup>1</sup> and the effect thereof on the character qualifications of Gilbert and its principals.<sup>2</sup>

### CHARACTER ISSUES<sup>3</sup>

2. *Fraudulent Billing.* Petitioners first request an issue to determine whether Gilbert principal Rose Penner engaged in fraudulent billing while she was employed by WNJR Radio Company and, if so, whether she and the applicant, Gilbert, possess the requisite character qualifications to be a Commission licensee. In support of the requested issue, petitioners submit the affidavit of Adela Molina, currently an employee of WNJR, in which she avers that "[o]n several occasions, the Sales Manager, Rose Penner, had also instructed me to 'fix' the affidavits. On one occasion she became very angry with me when she saw that I had done the affidavits in accordance with the log. She told me to 'fix it' mean-

ing, include all spots whether they had appeared on the log or not."

3. In opposition, Gilbert attacks the adequacy of Molina's affidavit, arguing that the words directly attributable to Penner (i.e., "fix" and "fix it") are not sufficient to show what Penner intended and whether her intent was improper, that there are no allegations that incorrect affidavits were actually prepared, that affiant does not say when the "several occasions" occurred, and that affiant fails to identify with particularity the affidavits which are the subject of her allegation. In addition, Gilbert submits the affidavit of Rose Penner in which she declares that the statements in Molina's affidavit are a "pack of lies." Penner avers that she never instructed Molina "to fix", "to change", or "to do anything else" to the affidavits of performance, and adds that "there never was an occasion" when she "became angry" at Molina for something she had done in preparing any of the affidavits. The Broadcast Bureau opposes addition of the requested issue.

4. In reply, petitioners submit a second affidavit by Molina.<sup>4</sup> Affiant alleges that Penner ordered her to fix the affidavits of performance to correspond to the advertising contracts rather than to the material actually broadcast since the only legal way she could have fixed the affidavits would have been to order "make good" advertising, which she had no authority to do. Moreover, she states, the time stipulated in some of the contracts

<sup>1</sup> In this connection, affiant states that she informed the acting sales manager, general manager, and board of trustees that clients were being billed for spots that were not actually broadcast.

<sup>2</sup> Petitioners' reply also contains the affidavit of Joseph Soriano, a former employee of Station WNJR. In its motion for alternative relief, Gilbert alleges that, contrary to Commission rules, Soriano's affidavit and Molina's second affidavit constitute new matter, and therefore it requests that the Board, in the alternative: (1) strike the allegations, or dismiss the reply pleading to this extent; (2) dispose of the joint petition on the merits and declare that it is disregarding these matters; or (3) grant leave to Gilbert to file a pleading in response to the new allegations. The Review Board will disregard Soriano's affidavit and those portions of the latter Molina affidavit which allege new factual bases for the issue—as distinguished from clarifying factual matter (i.e., the dates when the conversations took place) and explaining why she construed the words "fix" and "fix it" in the manner that she did. As correctly pointed out by Gilbert, Sections 1.45 (b) and 1.294(c) of the Commission's Rules provide that a reply shall be limited to matters raised in the opposition pleading. Here, although the affidavits in question are technically responsive to the opposition pleading, it is clear that both affidavits raise additional factual bases for adding the requested issue. Consideration of such material, however, is unnecessary in light of our disposition, see paragraph 5, *infra*. Therefore, there is no need to allow Gilbert to file a responsive pleading. See generally *D. H. Overmyer Communications Co.*, 4 FCC 2d 496, 504-505, 8 RR 2d 96, 107 (1966).

<sup>4</sup> Affiant states that her conversations with Penner took place during December 1973 and January 1974.



for broadcasting the advertising had expired and there was no way that those situations could legally be remedied.

5. The Review Board will add the requested issue. Section 73.1205 of the Commission's Rules specifically prohibits licensees from knowingly issuing to any party affidavits or other documents which misrepresent the quantity of advertising actually broadcast. Here, petitioners' allegations that Penner instructed Molina to prepare various affidavits of performance which would bill advertisers for "spots" that were never broadcast raise serious questions regarding the fitness of Penner and the applicant to be a Commission licensee. *Country-Politan Broadcasting, Inc.*, 54 FCC 2d 61, 63, 34 RR 2d 87, 90 (1975). We are not persuaded that Molina's affidavit is defective since her explanation (i.e., that all legal alternatives under which she was authorized to act were precluded) adequately answers the objections of vagueness raised by the Bureau and Gilbert. Neither do we think it necessary to deny petitioners' request on the basis of the other objections raised by Gilbert regarding Molina's affidavit, *Country-Politan, supra*. Accordingly, because the disputed factual allegations cannot be resolved on the basis of the pleadings, an appropriate issue will be added. See *Christian Voice of Central Ohio*, 26 FCC 2d 76, 20 RR 2d 389 (1970).

6. *Unethical Sales Practices*. Petitioners' second requested character issue seeks to determine whether Penner engaged in unethical business and/or sales practices in her capacity as sales manager of WNJR. Specifically, predicated upon an unsworn inter-office memorandum prepared by Julie Bartholomew and three unsworn letters written by Sam Brownstein, general manager of WNJR's sales representative, Pro Time Sales, Inc., petitioners allege that Penner engaged in "selling around the rep" (i.e., making direct sales to customers with whom the station representative was authorized to deal in order to avoid the representative's commission). In essence, Brownstein's letters refer to sales allegedly made directly by Penner, along with a comment that such actions are not "in keeping with our written agreement" and Bartholomew's memorandum declares that Penner told advertising customers "that she would handle it direct to avoid the rep commission." Petitioners acknowledge that the behavior in question may not violate either Commission Rules or Commission policy but argue that such conduct seriously tarnishes Penner's qualifications (as Gilbert's proposed sales manager) to operate a station within the bounds of proper business ethics, particularly since there is also purported evidence that Penner has engaged in fraudulent billing. In addition, petitioners allege that a candor and/or veracity question is raised if, as "counsel recalls is the case", Penner's testimony includes a denial that she ever engaged in the practice of "selling around the rep."

7. In opposition, Gilbert submits the affidavit of Penner in which she states

that she had direct instructions from the general manager to make whatever national sales that she could without being concerned as to whether or not the sale would be commissionable to Pro Time. Affiant avers that she never said anything that could have been interpreted as meaning that she wanted to avoid the "rep's" commission. The Bureau also opposes addition of the issue.

8. The requested issue will be denied. As properly noted by the Broadcast Bureau, petitioners' allegations fail to meet the specificity and support requirements of Commission Rule 1.229(c). Petitioners have not shown what the ethical standards are for the advertising industry with respect to the use of sales representatives, nor are the allegations of misconduct properly supported by an affidavit of a person with personal knowledge thereof.<sup>7</sup>

9. *Plugola*. Petitioners' final requested character issue seeks to determine: (a) whether Gilbert principals Charles Green and Herman Amis engaged in plugola while they were employed with WNJR; and (b) whether Amis testified falsely under oath concerning his contacts with record companies and his employment contract with Gilbert. Specifically, with regard to the plugola allegations, petitioners rely on a memorandum prepared by Green in his former capacity as operations manager of WNJR. In the memorandum, Green advised the program director that it would be far more beneficial to the station if Amis remained as music director and used his (Amis') "position to solicit record promotion budget money from the companies" with which he dealt every Tuesday. Green further declared that it was his intention to see that Amis' contact and relationship with the record companies would be "exploited to the fullest for the benefit of the station." Petitioners further rely upon Green's memorandum to demonstrate that Amis testified falsely under oath concerning his contacts with the record companies. Petitioners allege that in apparent contradiction to the memorandum, which reflects that Amis met regularly with the record companies, Amis, at hearing, denied under cross-examination that he had ever had discussions with the record companies.<sup>8</sup>

<sup>7</sup> Counsel's possible "recall" of Penner's testimony denying that she ever sold "around the rep" is not sufficient to add a misrepresentation issue. Penner acknowledges that she was allowed by the general manager to make direct national sales, but denies any wrongdoing.

<sup>8</sup> Petitioners urge that Green's and Amis' behavior requires exploration to determine whether those principals violated Sections 317 and 508 of the Communications Act of 1934, as amended.

<sup>9</sup> Petitioners state that Amis' answer was elicited when he was asked whether he had ever conferred with the record companies in an attempt to schedule the appearance of performers at his shows at the same time the record companies' albums were being advertised on WNJR. Petitioners point out that Amis currently owns JHJ Productions, Inc., a company that produces live shows in

Petitioners' final allegation relates to Amis' testimony denying that he had any agreement with Gilbert as to his proposed salary. Petitioners argue that an issue is necessary since Gilbert principal Larrie Stalks subsequently testified at the hearing that all of the Gilbert principals, including Amis, had entered into employment contracts with Gilbert, specifying, *inter alia*, their compensation for future services. With regard to the last allegation, the Bureau argues that in the absence of an explanation concerning Amis' denial of an employment contract with Gilbert, an appropriate issue is warranted to explore this apparent inconsistency; in all other respects, the Bureau opposes addition of the issue.

10. In opposition to the plugola allegations, Gilbert submits the affidavit of Green in which he avers that he has never been accused of participating in plugola or any other illegal activity in twenty-five years of radio experience, and that his memorandum did not suggest anything illegal. He explains that each record company and record distributor periodically has an advertising budget to spend on buying radio time to promote particular albums. Since Amis met every Tuesday with representatives of the record companies, Green continues, Amis was the logical one to solicit information as to the availability of advertising budgets. Green states that these representatives normally know whether their companies have established advertising budgets for the particular albums they are promoting, but that they are not the persons in their companies who purchase radio time. Thus, Green declares, Amis was to determine whether the budgets were available and then to pass that information on to the sales department, who in turn would call the advertising department of the record company for the actual sale. In addition, Green avers that at the time the memorandum was executed, the Pulse ratings reflected that WNJR had replaced WWRL as the number one black AM outlet in the New York Metro market and, thus, he saw that as an opportunity to turn those credentials into advertising dollars. He argues that his memorandum suggested taking advantage of that position.

11. The Board will deny the requested issue. As correctly noted by the Bureau, petitioners' allegations with regard to plugola do not comport with the specificity requirement of Section 1.229(c) of the Commission's Rules. Petitioners have shown neither that commercial matter was broadcast over WNJR in contravention of Section 317 of the Communica-

Newark, and state that it is a custom of the trade that when a recording artist or group is appearing live locally and the station is advertising a particular record made by that artist or group for the station to add a "tag" to the commercial informing the public that the recording artists are currently appearing locally in a live show.



tions Act<sup>10</sup> nor that Amis, or any other employee of WNJR, accepted money or other consideration in contravention of Section 508 of the Act.<sup>11</sup> Moreover, we agree with the Bureau that there is no indication in the language of the memorandum that the promotion budget money Amis was to solicit referred to anything other than legal purchases of commercial announcements over WNJR to promote individual records and stars. In any event, Green's affidavit provides an adequate and reasonable explanation of the meaning of the memorandum. The Board is therefore persuaded that an issue is not warranted on the basis of the plugola allegations. *Cf. CBS Inc.*, 49 FCC 2d 743, 31 RR 2d 1467 (1974). With regard to the allegations concerning Amis' testimony, we have examined the pertinent transcript testimony and are of the view that such allegations do not warrant an issue. The record clearly reflects that Amis' testimony that he had never had discussions with the record companies was given in the context of his assertions that he had never spoken to the record companies about buying or promoting acts. His statement cannot reasonably be taken as meaning that he had never spoken to the record companies about anything. Furthermore, Amis' testimony concerning an employment contract with Gilbert was in response to inquiries as to whether he had knowledge of the salary he was to receive. In light of his explanation contained in an affidavit submitted with Gilbert's opposition, i.e., that the amount of his salary will be determined at the time he commences the job and will be equal to what other program directors are earning at similar stations in the market, we do not believe that petitioners have shown that Amis' testimony was inconsistent with subsequent hearing testimony or that a material question of fact exists with regard to this matter.

#### ASCERTAINMENT ISSUE

12. In support of this requested issue, petitioners allege that Gilbert entered into employment contracts with nearly all of its stockholders,<sup>12</sup> providing that a stockholder would receive twenty-five and five dollars, respectively, for each community leader and member of the general public he or she contacted who, in the opinion of communications counsel, would be useful for the application. Petitioners contend that the em-

ployment contracts violate the *Primer*,<sup>13</sup> since they give Gilbert's communications counsel the power to determine which community leaders are important and which needs and problems will be included in the application. Moreover, petitioners argue that the *bona fides* of Gilbert's ascertainment efforts are affected by paying the stockholders on a "per interview" basis since the payments create a situation where an interviewing stockholder might make as many contacts as possible, meaningful or not, in order to increase the amount that the stockholder would receive. Finally, petitioners argue that the payments to stockholders as part of an employment contract raise a question as to whether the interviewers became employees rather than principals within the meaning of the *Primer*.

13. In opposition, Gilbert submits the affidavit of its President, Milton A. Gilbert, in which he avers that the only authority given to counsel in connection with the applicant's ascertainment efforts was the right to refrain from using an interview in the application which on the basis of counsel's judgment and experience would not be regarded by the Commission as a valid interview. In this connection, affiant states, counsel was obliged to explain to the satisfaction of the principal who conducted the interview why the interview would not be acceptable to the Commission. Affiant further avers that the persons to be interviewed were selected by the principals, not by the applicant's counsel, although the interviews were based upon the advice of counsel. Finally, affiant notes that based upon counsel's advice, the applicant did decide upon a maximum number of community leader and general public interviews to be conducted (which governed the number of interviews undertaken for which compensation was paid), the type of civic leaders to interview, and the methods to be used in conducting the general public survey.

14. The requested issue will be denied. Petitioners' allegation that Gilbert's ascertainment efforts are deficient is based upon speculation and surmise and therefore fails to meet both the specificity and support requirements of Section 1.229(c) of the Commission's Rules. Petitioners have neither shown that the Gilbert principals failed to carry out their responsibilities of identifying and interviewing leaders of all significant groups in the proposed service area nor demonstrated that counsel's authority included anything other than proper legal assistance in determining whether the prospective interviews met Commission standards. Moreover, in light of Gilbert's explanation that the applicant had decided beforehand on a specific maximum number of interviews and that the applicant had solicited counsel's views regarding the value of specific interviews, the Board rejects petitioners' contentions that the *bona fides* of Gilbert's survey efforts are affected by the fact that the

applicant compensated its principals for each interview conducted. Finally, the Board perceives no reason why the employment contract in this case would change the status of Gilbert's principals into employees.

15. Accordingly, it is ordered, That the motion for alternative relief, filed August 29, 1975, by Gilbert Broadcasting Corporation IS GRANTED to the extent indicated herein, and IS DENIED in all other respects; and

16. It is further ordered, That the joint petition to enlarge issues, filed July 15, 1975, by Sound Radio, Inc., Community Group for North Jersey Radio, Inc., Fidelity Voices, Inc., and Venture III Corporation IS GRANTED to the extent indicated herein, and IS DENIED in all other respects; and

17. It is further ordered, That the issues in this proceeding ARE ENLARGED to include the following issue:

To determine whether Gilbert Broadcasting Corporation's principal, Rose Penner, has engaged or attempted to engage in fraudulent billing in her capacities as sales manager and/or saleswomen of WNJR and, if so, to determine the effect thereof on the basic and/or comparative qualifications of Gilbert Broadcasting Corporation to be a licensee of the Commission.

18. It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof under the issue added above SHALL BE upon Sound Radio, Inc., Community Group for North Jersey Radio, Inc., Fidelity Voices, Inc., and Venture III Corporation.<sup>14</sup>

FEDERAL COMMUNICATIONS  
COMMISSION,  
VINCENT J. MULLINS,  
Secretary.

[FR Doc.75-28836 Filed 10-24-75; 8:45 am]

[FCC 75R-389]

HAROLD J. SHARP ET AL.

Memorandum Opinion and Order  
Enlarging Issues

In re applications of Harold James Sharp, Ocala, Florida, Docket No. 20510, File No. BPH-8873; Greater Ocala Broadcasting Corporation, Ocala, Florida, Docket No. 20511, File No. BPH-9015; Hunter-Arnette Broadcasting Co., Ocala, Florida, Docket No. 20512, File No. BPH-9211, for construction permits.

1. This proceeding involves the mutually exclusive applications of Harold James Sharp (Sharp), Greater Ocala Broadcasting Corporation (Greater Ocala) and Hunter-Arnette Broadcasting Co. for construction permits for an FM broadcast facility for Ocala, Florida. Presently before the Review Board is Greater Ocala's second petition to en-

<sup>10</sup> Section 317 requires that where money, services, or other valuable consideration are directly or indirectly paid or furnished, as the case may be, for material that has been broadcast, an announcement must be made as to that fact, accompanied with the identity of the person providing the consideration in question.

<sup>11</sup> Under Section 508, an employee of a radio station who accepts money or other valuable consideration for the broadcast of matter over the station is required to report such acceptance to the station in advance of the broadcast.

<sup>12</sup> The contracts were with principals Charles R. Green, Herman Amis, Rose L. Penner, Larrie W. Stalks, and William A. Franklin.

<sup>13</sup> *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971).

<sup>14</sup> With respect to petitioners' burdens, see the Board's discussion in paragraph 9 of *Rocket Radio, Inc.*, FCC 2d —, adopted October 15, 1975.



large issues, filed July 24, 1975,<sup>1</sup> seeking the addition of nondisclosure/misrepresentation, effectuation of proposal, and financial issues against Sharp.

2. In support of its first request, Greater Ocala alleges that, although neither Sharp's original application nor subsequent amendments thereto indicate that he has any current broadcast interests, a recent ownership report filed on behalf of Station WLBE, Leesburg, Florida, reflects that Sharp has been a proposed 25% owner of that station since January 1975. Moreover, petitioner contends, the applicant failed to report the assignment application, filed March 24, 1975 (and approved in June 1975), which sought Commission approval for the acquisition of that interest by Sharp. According to Greater Ocala, the acquisition of this broadcast interest must be regarded as being of potential decisional significance in light of the comparative nature of this proceeding. As a consequence, petitioner continues, there is ample reason to suspect that Sharp may have affirmatively misrepresented the existence of this other current broadcast interest to the Commission. The Broadcast Bureau supports the addition of a Rule 1.65 issue, asserting that the fact that Sharp's interest in Station WLBE was reflected in another unrelated proceeding does not affect its obligation to disclose such clearly relevant information here. However, rather than adding a separate misrepresentation issue, the Bureau urges that the question of whether Sharp intended to mislead the Commission can be fully explored pursuant to a Rule 1.65 issue. Sharp contends that inasmuch as he had no other broadcast interests at the time he filed his application and that the WLBE application showed the Ocala file number, all notification requirements were fulfilled. Further, Sharp contends that since WLBE is a standard broadcast facility some thirty miles from Ocala, there is no licensing conflict.

3. Greater Ocala next requests the addition of an effectuation of proposal issue, alleging that in the WLBE assignment application Sharp was listed as vice president and full-time general manager of the Leesburg station, a representation which conflicts with Sharp's representation in the present proceeding that he would be "full-time owner/manager" of his proposed Ocala facility. Thus, concludes Greater Ocala, an issue is required to determine whether Sharp can effectuate his proposal. The Broadcast Bureau opposes the addition of a separate issue, stating that it does not believe that Sharp's full-time participation as general manager is essential to the effectuation of his plans. However, since a serious question is raised by Sharp's conflicting representations, the Bureau, citing *Payne of Virginia*, 28 FCC 2d 66, 21 RR

2d 535 (1971), argues that any Rule 1.65 issue added be broad enough to encompass an inquiry into this apparent discrepancy as well.

4. Greater Ocala also alleges that the disclosure of Sharp's ownership interest in Station WLBE raises substantial and material questions as to Sharp's financial qualifications, since it reveals a reduction in the amount of cash available to Sharp, as well as additional demands on his assets. Specifically, Greater Ocala asserts that Sharp's transfer application indicates a reduction in cash on hand available to Sharp from \$67,000 to \$65,000, and that Sharp has made an additional loan commitment of \$15,000 to Station WLBE. With respect to the instant application, petitioner contends that a \$20,000 note previously relied upon as due and payable is now in default, and that Sharp has failed to include a first year cost estimate of \$8,750 for payments due on a \$25,000 bank loan.<sup>2</sup>

As a consequence, Greater Ocala concludes that Sharp now has net available funds of \$66,250 to meet projected costs of \$79,770, a deficit of \$13,520. Greater Ocala also suggests that a question exists as to whether the loan commitment to Sharp is still valid inasmuch as Sharp recently assumed a \$260,000 obligation held by another bank against the previous WLBE owners. The Broadcast Bureau agrees with Greater Ocala that a financial issue is warranted and suggests that the Rule 1.65 issue be broad enough to permit an investigation of the apparent failure of Sharp to report his financial commitment to WLBE. Sharp, in opposition, asserts that his "financial position, has been affected basically in no way by WLBE's transfer, if anything his financial status position has improved with the equity in WLBE."

5. In the Board's view, addition of a Rule 1.65 issue is warranted in light of Sharp's failure to amend his application to report his ownership interest and participation in and financial obligations to Station WLBE. All three matters are clearly of potential decisional significance. Thus, the acquisition of a substantial interest in a broadcast licensee may be determinative under the diversification aspect of the comparative issue specified herein. Similarly, the question of whether or not Sharp will be able to function as the full-time general manager of both Station WLBE and the instant proposal could well be critical in assessing the integration aspect of his proposal here.<sup>3</sup> And third, it is no longer

<sup>1</sup> Petitioner also alleges that there is a question raised as to whether the anticipated cost of operation is sufficient, since the Sharp application shows no estimates for telephone service, travel, taxes, insurance and building maintenance expenses. However, these allegations have not been timely raised, and, absent greater specificity and supporting affidavits, do not warrant evidentiary inquiry.

<sup>2</sup> We will not add a staffing issue, however. Petitioner's allegations relate to the question of who will serve in the capacity of general manager for the proposed facility, not to the question of whether Sharp has proposed sufficient staff to effectuate his proposal.

clear that Sharp possesses the financial capability to finance the instant proposal. Greater Ocala has drawn Sharp's financial qualifications into question in two important respects. Based on the information before us, we are unable to determine to what extent Sharp's obligations to Station WLBE have diminished his overall financial resources. Sharp has not earmarked funds for the two enterprises, nor has he responded to Greater Ocala's allegations in this regard. Further, petitioner has also raised a question as to whether the available funds relied upon for this proposal have undergone a substantial reduction because of the assumption of new liabilities and reduction in collectable debts. A financial issue will therefore also be added.

6. ACCORDINGLY, IT IS ORDERED, That the second petition to enlarge issues, filed July 24, 1975, by Greater Ocala Broadcasting Corporation is granted to the extent indicated herein, and is denied in all other respects; and

7. It is further ordered, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine whether Harold James Sharp has violated the provisions of Section 1.65 of the Commission's Rules by failure to report his interest and participation in WLBE Radio, Inc., and, if so, to determine the effect thereof on the applicant's comparative qualifications to be a Commission permittee; and

(b) To determine whether Harold James Sharp has available sufficient funds to construct and operate his proposed station for one year, and in light thereof, whether he is financially qualified to construct and operate the proposed Ocala facility.

8. It is further ordered, That the burden of proceeding with the introduction of evidence and burden of proof under issue (b) added herein shall be on Harold James Sharp.

Adopted: October 16, 1975.

Released: October 21, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc 75-28837 Filed 10-24-75; 8:45 am]

[FCC 75-1136]

J. SHERWOOD, INC. ET AL.

Designating Applications for Consolidated  
Hearing on Stated Issues

In re applications of J. Sherwood, Inc., Rochester, New Hampshire, Docket No. 20618, File No. BPH-8917, Requests: 96.7 MHz, Channel No. 244; 3 kW (H&V); 161 feet. Stratford Broadcasting Corporation, Rochester, New Hampshire, Docket No. 20619, File No. BPH-9037, Requests: 96.7 MHz, Channel No. 244; 2.1 kW; 351 feet, for construction permits.

1. The Commission has before it the two above-captioned applications to provide new FM service to Rochester, New Hampshire, which are mutually exclu-

<sup>1</sup> Also before the Board are the following related pleadings: (a) comments, filed August 6, 1975, by the Broadcast Bureau; (b) opposition, filed August 7, 1975, by Sharp; and (c) reply, filed August 6, 1975, by Greater Ocala.



sive in that they seek the same channel. Also before the Commission are a petition to deny the application of J. Sherwood, Inc. [Sherwood], filed by the competing applicant, Strafford Broadcasting Corporation [Strafford]; an opposition filed by Sherwood, and a reply thereto.<sup>1</sup> The petition raises matters concerning Sherwood's financial and character qualifications, and requests the specification of numerous issues related thereto.

2. Strafford alleges that Sherwood, in its initial financial data, has understated various costs, noting the proposed amounts for legal and miscellaneous costs in particular as being unreasonably low. In response, Sherwood submitted a financial amendment, simultaneously with the filing of its opposition, which effectively moots the allegations raised as to the sufficiency of that applicant's cost estimates.<sup>2</sup> Although we are persuaded that Sherwood will have sufficient funds available to meet its projected costs of construction and operation, as presently proposed, the assertions advanced by Strafford concerning misrepresentations allegedly made by Sherwood in the course of its original financial documentation raise serious matters which merit discussion.

3. The financial information associated with the original Sherwood application indicated that \$31,150 was deposited "... in a premium account with the Indian Head National Bank in Manchester, New Hampshire." (Sherwood's application, Exhibit 3.) Sherwood, in response to section III, paragraph 3(d) of FCC Form 301, noted that no conditions were attached to these funds, which were proposed to offset entirely the anticipated costs of construction and operation of the facility. A reference was made to the effect that \$20,000 of this figure was provided by a loan, payable at 7½ percent annual interest, from the Indian Head National Bank, although no corresponding letter of commitment was filed, as required by section III, paragraph 4(c) of the application form.

4. Strafford concentrates its attack upon this loan in the petition to deny, and asserts that there were indications that the funds on deposit were encumbered and not freely available, as claimed by Sherwood. The petitioner likens the \$20,000 loan to a "pass-book loan," wherein the deposit book for the account is surrendered to the bank as collateral to secure the funds advanced. Strafford contends that Sherwood concealed this fact in order to bolster its financial qualifications; the misrepresentation in this instance is allegedly so grievous as to merit

the specification of a character qualification issue.

5. Sherwood attempts to refute the petitioner's claims in an affidavit by the president of the applicant, J. Sherwood Bent, who avers that he "misunderstood" the conditions of the loan, but that at all times he considered the total amount in the corporate account fully available for use by Sherwood. To corroborate this contention, a letter from the Indian Head National Bank, dated May 2, 1975, is submitted to demonstrate, according to Sherwood, "... that the Bank would be quite flexible with respect to future advances, collateral and repayment at such time as the \$20,000 was needed for the proposed station." (Opposition, par. 7, emphasis supplied.) However, Sherwood reorganized its corporate structure and completely revised its financial plan, abandoning the passbook loan as an integral part of its financing and substituting therefor a \$65,000 loan from the Indian Head National Bank.

6. A similar situation was presented to the Review Board in *Saul M. Miller*, 38 FCC 1374, 5 RR 2d 830 (Rev. Bd., 1965), wherein the applicant represented that no conditions were imposed upon a \$10,000 bank loan, although, in fact, the loan was secured by the pledge of a \$10,000 savings deposit. When this fact was disclosed, the applicant asserted that he was an inexperienced borrower and was unaware of the relevant conditions imposed by the bank. He also assured the Review Board that he could obtain the necessary funds "by other arrangements," as evidence of the propriety of his conduct. Further, he noted that there would be no explicable reason for him to pledge \$10,000 in order to borrow \$10,000. The Review Board concluded that a motive was indeed apparent for the transaction allowed the applicant to show greater financial resources than he actually had available to him. The mitigating factors advanced by the applicant were adjudged to be not persuasive, and the application was denied for the applicant's lack of the requisite character qualifications.

7. The similarities between *Miller* and the instant case are striking. Sherwood proposed to borrow \$20,000, at a cost of \$1,500 per year, money which would not be needed until the Commission acted favorably upon its application. The effect of this transaction was to allow Sherwood to claim that \$31,150 was on hand, deposited in a corporate account, when, it appears, Sherwood could not obtain the use of this money without further negotiations with the bank. In the May 2, 1975, letter, the Indian Head National Bank representative stated the bank's position with much less certainty as to future use of the pass-book advance than did Sherwood in its opposition; the bank representative clearly noted only that "... there could be flexibility ..." as to the terms and conditions governing the use of the money held on deposit, but these additional terms were not revealed (emphasis supplied). In addition, that letter recognized the "excellent past

personal borrowing relationship" between the bank and Sherwood's president, who was certainly not unaware of the responsibilities and obligations inherent in a loan transaction. Finally, although Sherwood maintains that an extension of credit for \$20,000 could have been obtained from the bank as an alternative to the transaction utilized (Opposition, App. C), there is nothing to corroborate this assertion, and we cannot rely upon it. *Miller*, supra, at 1380, 5 RR 2d 886-887, fn. 3.

8. In light of the foregoing, we are of the opinion that a substantial and material question exists concerning the manner in which Sherwood reported this transaction in its application, and also concerning the impact of this alleged misrepresentation upon Sherwood's basic qualifications. Therefore, an appropriate issue will be specified to more fully explore this matter.

9. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to the application of J. Sherwood, Inc.:

(a) Whether the applicant made intentional misrepresentations in its original financial showing; and

(b) Whether, in light of the evidence adduced pursuant to (a), above, J. Sherwood, Inc., has the requisite character qualifications to be a Commission licensee.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, That, the petition to deny is granted to the extent indicated above, and is denied in all other respects.

13. It is further ordered, That, in the event that Sherwood is the successful applicant herein, the construction permit will contain the following condition:

<sup>1</sup> Strafford also submitted an unopposed petition to condition the grant of the Sherwood application, in the event Sherwood prevails. As the relief requested is routinely required of licensees, we will impose an appropriate condition. See paragraph 13, *infra*.

<sup>2</sup> In addition, allegations concerning deficiencies in Sherwood's balance sheet and letter from the equipment supplier have been mooted by more current information, filed by Sherwood in its recent amendment.



Subject to the condition that sufficient measurements shall be made both before and after construction of the antenna structure to show that there is no distortion of the antenna pattern of station WWNH(AM). Measurements shall be made jointly by personnel of the applicant and station WWNH(AM) or there shall be mutual agreement of the measurements as indicated by joint signatures to the data submitted.

14. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to section 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

15. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by section 1.594(g) of the rules.

Adopted: October 7, 1975.

Released: October 20, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc. 75-28839 Filed 10-24-75; 8:45 am]

[Docket No. 18875; FCC 75-1167]

#### OVERSEAS COMMUNICATIONS

##### Licensing of Facilities; Third Notice of Inquiry

In the matter of the inquiry into policy to be followed in future licensing of facilities for overseas communications.

1. By its Further Notice of Inquiry, released February 25, 1975, the Commission reopened these proceedings, which had been initiated on June 16, 1970, by Notice of Inquiry and followed by a Statement of Policy and Guidelines for Overseas Communication, released on June 25, 1971, (30 FCC 2d 571). The Commission set forth in the Further Notice the considerations leading to the conclusion that "a requirement exists for continuing Commission review of relevant information for the purpose of establishing and refining where necessary principles and guidelines under which planning and implementation of needed communication facilities may proceed on a timely basis." We stated that we would focus initially on the transatlantic route and that the first step in this process would be the collection and analysis of information concerning several specified areas of interest. To this end we invited all interested parties to a series of meetings which resulted in the

formation of three informal working groups<sup>1</sup> which were charged with gathering, discussing and analyzing information for presentation to the Chief, Common Carrier Bureau. These working groups have each submitted their initial reports. Subsequent to those submissions, as contemplated in our Further Notice U.S. Government and industry representatives held discussions in Paris from June 16-19, 1975, with European and Canadian representatives to exchange information and discuss those factors relevant to the licensing policies which are the subject of this Docket.

2. The informal proceedings outlined above have already proven valuable. However, as indicated in our Further Notice, we anticipated that these proceedings would also result in one or more Statements of Policy which would, as necessary, refine, amend and supplement our 1971 Statement. We believe it would be in the public interest for the Commission to issue such a Statement of Policy with respect to the North Atlantic area in the near future, and that, accordingly, this is an appropriate time to afford interested parties an opportunity, as contemplated in our Further Notice, to file written comments in this proceeding.

3. In order to place this Third Notice in proper perspective, we wish to review briefly the background of this proceeding, as well as to set forth certain basic assumptions and to define our objectives as clearly as possible. The proceeding had its genesis in a recognition that the increasing complexity of international communications called for improving the methods for facilities planning. In our June, 1970, Notice of Inquiry, we noted the inadequacy of fulfilling our statutory responsibilities by relying solely on *ad hoc* consideration of individual applications and stated our intention to seek, to the extent possible, to "formulate a policy which will govern our future licensing in the field of overseas communications" in a foreseeable future time period in order to afford interested carriers and their foreign correspondents as firm a base as possible for their planning of facilities. To aid in the formulation of an appropriate policy, we solicited specific information on a number of subjects,<sup>2</sup> as well as detailed recommendations concerning the policy the Commission should adopt and the manner in which such a policy should be implemented.

4. After considering the responses to its Notice as well as the results of a public conference with interested carriers and a meeting with representatives of European Administrations and carriers,

<sup>1</sup> Concerned respectively, with Traffic Forecasting, Service Reliability and Economics.

<sup>2</sup> These subjects included present facilities and their use; demand; additional facilities which could be authorized in the 1970-80 time frame; techniques for increasing basic facility capacity; need for redundancy and diversity of facilities; research and development and competition between media.

the Commission released its Statement of Policy and Guidelines on June 25, 1971, (30 FCC 2d 571). In that Statement we set forth the following "framework of policy" as a guide to future licensing of transatlantic facilities:

(a) The public interest requires that we promote the continued development of both cable and satellite technologies and their most effective and timely applications to meet future requirements for international communications services.

(b) The public interest also requires that we authorize the most modern and effective facilities available via both cable and satellite technology with due regard for efficiency, economy, diversity and redundancy.

(c) The public interest and due regard for the concerns of the Administrations which operate the foreign end of cables require that care should be taken to minimize the need for imposing artificial formulae to govern the distribution of traffic among available media.

(d) The public interest requires that the economies available from each advance in technology be reflected in charges for service.

In the present context we think it is important to note that we then went on to address specific proposed facilities in light of the policy framework. We concluded that the public interest would be served by a new SG type transatlantic cable rather than another SF type cable, as had been proposed by AT&T.

5. As indicated above, the Commission reopened this proceeding with the issuance of its Further Notice in February, 1975. This was done in recognition of the need for continuing Commission review in this dynamic area to update and refine our policies in order to assist our licensees and their foreign correspondence in the orderly and timely planning of transatlantic facilities. As contemplated in our Further Notice, we have proceeded with the "informal" stage of our proceedings, which include the working groups and a meeting with interested European Administrations. We now wish to obtain written comments and recommendations to aid the Commission in updating, refining, and expanding—as necessary and appropriate—our 1971 Statement of Policy; and in applying these revised policies to the planning of future facilities (e.g., INTEL-SAT V satellite and TAT-7 cable) for which further policy guidance is needed. As a part of this continuing effort, we intend to establish and define criteria and prescribe procedures for Commission consideration of applications for international communications facilities. Specifically, we shall attempt to identify the factors which the Commission will take into consideration (e.g., service reliability, traffic forecasts, costs), the various elements that comprise such factors, how such factors will be applied in comparing cables and satellites, the information that the Commission will require from applicants, the methodology employed to obtain such information,



its utilization and the timing of the submission of such information to the Commission.<sup>2</sup>

6. In order to provide the Commission with as broad and thorough a spectrum of views and information upon which to base any further or revised statement of policy, parties to this proceeding are requested to address themselves in considerable detail to the following general and specific questions:

#### A. GENERAL

1. What specific changes, clarifications, etc. should be made in the 1971 Statement of Policy in order to make it more useful and effective for planning purposes? Explain how each such change, clarification, etc. would be helpful in this regard.

2. Should the Commission adopt as a basic policy the maintenance of a specific ratio of cable and satellite facilities and/or circuits? If so, what is the economic, operational, or other rationale for such a policy? If not, are there alternative policy guidelines relating to the appropriate "mix" of cable and satellite facilities, and what is the economic, operational, or other rationale for such guidelines?

3. Should the Commission seek to authorize the "least cost" (appropriately defined) combination of facilities which will satisfy specified traffic and service objectives over a specified interval of time? If so, specify the appropriate definition of "least cost", the method of determining same, and the appropriate time interval for consideration, along with supporting justification therefor.

4. Should the Commission adopt a policy having the objective of establishing a specific number (e.g., 3, 4, 5) of major facilities (routes) over which transatlantic traffic would be distributed on a reasonable basis? If so, what should be the policy and explain the rationale for such a policy? If not, what guidelines, if any, should be established regarding the number of routes required?

#### B. FORECAST METHODOLOGY

The basic objective is to focus on the framework and methods of analysis currently employed by the carriers to project levels of demand for telecommunications services which, in turn, are used to plan for additional facilities. A second objective is to seek information and suggestions relating to efforts that are being undertaken, or contemplated to improve existing techniques.

The following questions are directed at identifying, both quantitatively and qual-

itatively, certain fundamental aspects of forecasting methodology in order that we may better understand the techniques used by the carriers. Information is sought in the following areas:

a. The raw data collected and the data sources.

b. Procedures by which the data is collected.

c. Methods used to analyze the data.

d. Procedures used for the practical application of the analyzed data.

e. Recognition of the impact on planning that improvements in the data base or analytical approach may make; and,

f. Effect of the accuracy of forecasts on the timing and planning of facilities.

Central to the achievement of the above noted objectives is a complete determination of the current data base, data sources and methodologies applied to this information. By using current approaches as a basic reference the question as to their continued use, modification, expansion or replacement may then be addressed.

In this respect the following information and/or explanations should be included in your reply:

1. Identify and explain the major parameters used to estimate call demand for each class of service. (It is recognized that demand may not only be determined by the desire to make a call, but also by such factors as time, rates, quality, proposed services and so on.)

2. For each parameter identified in 1. above, explain (1) the information and data used to derive the estimates for each parameter; (2) the methodologies employed to establish the quantitative impact of each parameter; (3) the values of the parameters, including any statistical tests of significance that are performed; (4) the manner by which these estimates are incorporated into the forecasts; and (5) if the parameters are estimated on the basis of historical data, explain the methods, assumptions, etc., employed to determine the future values of the parameters used to develop the forecasts and the actual estimates of these values.

3. A concise, comprehensive description of the forecasting techniques, employed in the derivation of the forecasts. This discussion should include all implicit and explicit assumptions, a detailed exposition of any statistical procedures that are used, an explanation of any survey techniques employed, an explicit list of any "judgmental factors" incorporated into the forecasts, the basis and information used in these "judgmental factors", and the quantitative value of these "judgmental factors".

4. The indicators or criteria, if any, that form the basis for assessing the a priori reliability of the forecasts and any indicators of the reasonableness of the forecasts.

5. Where actual values deviate from forecasted values for any particular year, explain what adjustments, if any, are made to the remaining forecasted values for the particular time period under study.

6. To the extent different methods, data, assumptions, forecasting tech-

niques, etc., are used for short term versus longer term projection of demand, explain the differences and discuss the rationale for using different approaches. If short term forecasts are some how combined with or serve as a basis for longer term forecasts, explain the manner in which the latter are based on, derived from, or otherwise combined with the former.

7. Indicate in detail, the manner in which the call demand forecast obtained as in 1. is translated into a specific number of circuits for each class of service (e.g., demand in Erlangs may be translated into the required circuits by using a Poisson distribution).

8. With respect to the data and methodology presented above, what steps, if any, can be taken to improve the traffic forecasts that serve as a basis for the planning of future facilities? Explain in detail the changes or improvements you suggest with respect to:

a. The types of data and information to be gathered.

b. The procedures that would be used to collect this data and information.

c. The general methodologies that would be used with this data.

d. The manner in which the data would be utilized with these methodologies.

e. The manner in which new data would be introduced into such methodology.

#### C. SERVICE RELIABILITY CONSIDERATIONS

The basic purpose is to provide a structured approach for the development of service reliability objectives and for the method(s) of analyzing the alternative means of achieving those objectives. The questions presented are directed toward obtaining certain basic information and the views of the parties concerned on the framework and method(s) of analysis that should be employed to evaluate alternative means of achieving service reliability objectives.

1. What are the factors of reliability that are considered in facilities planning?

2. What are the service reliability objectives for each service offering?

3. What are the differences between cable and satellite facilities that should be considered in examining service reliability and how should these differences be taken into account in the planning process?

4. Are there any significant differences between cable and satellite facilities in the quality of service or efficiency of operation for the various services provided? What are those differences and what steps can be taken, if any, to reduce those differences?

5. Explain the manner in which service reliability aspects are examined and utilized in the planning process today.

6. Is the process described in 5. above satisfactory? What improvements, if any, should be made to the existing process? Should a different process be established? If so, describe the process that should be established and how

<sup>2</sup> In this regard, we call attention to the Commission's 1974 "Statement of Policy Concerning Procedures Applicable to Comsat's Applying for Commission Authorization to Participate in Certain INTEL-SAT Activities" (46 FCC 2d 338) wherein we stated that Comsat was expected to file certain applications prior to the time that all details concerning proposed facilities are known with precision, and, even prior to filing an application to keep the Commission fully and promptly informed concerning INTEL-SAT's facilities planning.



should the Commission proceed to establish that process?

#### D. ECONOMICS

The basic objective is to focus on the framework and methods of analysis that should be employed to evaluate alternative courses of action that may be taken with regard to international cable and satellite facilities. The frame of reference for such evaluation procedures are the costs associated with these alternative courses of action. Central to this evaluation procedure is the development of a methodology that can be used to compare the prospective costs of establishing and operating satellite and cable facilities that are being considered for addition to the then existing international telecommunications network. However, the methodology should have sufficient flexibility so that it is possible to incorporate considerations of (1) variations in the timing of additions to the network; (2) varying degrees, types, and methods of achieving service reliability; (3) changes in traffic forecasts; (4) the impact of technological advancements and other factors which may have an impact on costs of the relevant alternatives. The methodology should also have the capability of examining and comparing the costs, the benefits, and the trade-offs of the alternative courses of action.

Considering the above objectives, please provide your response to the following:

1. What comprises the basic facilities costs that should be considered? What costs are relevant to both cable and satellite systems; unique to satellite systems; unique to cable systems; excluded costs?

2. What period of time should be used for comparing costs of alternative courses of action regarding transatlantic facilities and what are the factors that determine the time period used?

3. In order to properly compare the cost of alternative facilities, what considerations should be included in the costing analysis and what form should this analysis take (e.g., PWAC, PVCO). Provide a detailed breakdown indicating the precise methodology, significance of the individual cost contributing factors expected, amortization periods, and so on, so that a determination can be made of the validity of the proposed approach. This reply should indicate the extent to which intra-country "tails" are taken into account, the manner in which costs borne by foreign entities are taken into account, and the tax structure used in the analysis.

4. What method should be used to take account of the possibility that a facility may have a useful life that extends beyond the time period used for cost comparison studies?

5. In your opinion, how best should the Commission proceed to develop a methodology for comparing the cost of proposed cable and satellite facilities for transatlantic communications?

6. What method(s) for comparing the costs of alternative plans should be studied?

7. What data should the Commission require in order to study the method proposed?

8. In what manner should traffic demand and service reliability be considered in any cost comparison study?

9. How should the costs of alternative facilities be submitted so that the relevant costs are presented in comparable terms and the suggested methods for comparing the costs of alternatives can be performed?

#### E. PRESENT USE OF FACILITIES

1. Transatlantic Cable facilities—Indicate as of year-end 1974 and September 30, 1975, the number of equivalent voice circuits in use in each cable carrying U.S. transatlantic traffic to each point served; show circuits used for non-U.S. traffic separately; show TASI circuits separately; indicate the type of service provided over each voice grade circuit (i.e., message telephone service, telex, AVD, etc.). Indicate idle circuits (voice-grade or telegraph type) in each facility and the points to which each such circuit is allocated.

2. Atlantic Satellite facilities—Indicate as of year-end 1974 and September 30, 1975, the number of equivalent voice circuits in use in each Atlantic satellite to each point served. Comsat should present such information for each point using Atlantic satellites, with U.S.-Europe circuits listed under a separate heading. AT&T and each IRC should present such information for its respective traffic and show the type of service provided over each voice grade circuit. Any satellite traffic transiting the U.S. should be shown separately.

3. Comsat should present as of September 30, 1975, the detailed configuration for each Atlantic operational satellite showing capacity assigned to each point and indicating the number of assigned circuits that are unused. Comsat should indicate separately the amount of capacity in each operational satellite that is used or allocated for purposes such as television, SPADE, leased transponder, cable restoration, etc. Any unallocated capacity should be shown.

4. Summary—As a summary and separate list, Comsat, AT&T and each IRC should each show the circuits it has in use between the U.S. and each European point in each facility serving those points, indicating the capacity in each facility to each point that could readily be utilized for traffic growth. Use September 30, 1975, figures.

#### F. AUTHORIZED FACILITIES NOT YET IN USE (ATLANTIC)

1. Transatlantic Cable (TAT-6)—AT&T and each IRC is requested to present, to the extent possible, its proposed use of the TAT-6 cable giving information similar to that requested in E.1 above, as appropriate, for the end of the first full month of operation and for the end of each year 1976-85. Indicate, as necessary, any changes in the use of existing authorized cable or satellite facilities as a result of the proposed utilization of the TAT-6 cable.

2. Atlantic Satellites (IV-A)—Comsat is requested to present, to the extent possible, its proposed configuration for the use of the Atlantic IV-A satellite or satellites giving similar information requested in E.2 above as appropriate for the end of the first full month of operation and for the end of each year 1975 until no longer used or useful. AT&T and each IRC should present its proposed respective use of the IV-A satellite(s) giving similar information requested in E.2 above as appropriate and to the extent possible for the end of the first full month of operation and for the end of each year 1975 until no longer used or useful. Indicate, as necessary, any changes in the use of existing authorized facilities as a result of the proposed utilization of the IV-A satellite(s).

#### G. FUTURE FACILITIES WHICH COULD BE AVAILABLE IN THE 1976-85 TIME FRAME

1. Present a detailed description of each type of overseas facility that could be made available for North Atlantic service in the 1976-85 time period. Include the extent of any further research and development work which needs to be done, the earliest date at which construction can begin, the time required for construction, the earliest operational date and the anticipated operational date. Provide the estimated capital and operating costs associated with each type of facility showing separately any concomitant investment which may be required to construct additional or modified associated facilities such as earth stations, cable stations, landlines, terminal equipment, cable ships, etc. Also show separately research and development costs and satellite launch costs.

2. For each facility proposed in G.1 above present the type of information requested in F above to the extent possible and as appropriate. This should represent your current best proposal for the utilization of each new facility proposed. Explain in detail how each proposed facility will be used and is needed to satisfy:

- Projected traffic requirements.
- Service reliability requirements i.e., diversity, redundancy, restoration, grade of service, etc.
- Special service needs.

#### H. DEMAND

Provide the projections of demand relied on in responding to questions herein. Indicate expected demand for equivalent voice circuits as of year-end 1975, and each year-end thereafter thru 1985, for each point expected to be served by the facilities proposed in F and G above.

#### I. OUTAGES

For the years 1972, 73, 74 and the first six months of 1975 provide the following:

1. Comsat—For each Atlantic region satellite: number of outages, duration of each outage, number of U.S. circuits affected by each outage, cause of each outage, cost to repair each outage.

2. Comsat—Provide above information for each U.S. earth station operating in the Atlantic region and, to the extent



possible, each European earth station operating in the Atlantic region.

3. AT&T-IRC—For each TAT cable provide the number of outages, duration of each outage, number of U.S. circuits affected by each outage, cause of each outage, cost to repair each outage. Also report the number of circuits restored via other facilities, what portion was restored via satellite and via cable and the average time of restoration. For each cable break, report where break occurred and whether cable was buried, armored or unprotected at break location.

4. AT&T-IRC—For U.S.-European satellite circuits, report the number of occasions U.S. circuits were affected by satellite outage, by earth station outage (U.S. and foreign), average time of restoration and means of restoration (other satellite facilities, cable facilities, or await repair of temporarily failed facility).

#### J. ADDITIONAL QUESTIONS ADDRESSED SPECIFICALLY TO COMSAT

1. What information do you maintain concerning current and proposed use of cable facilities? How is this information considered in the satellite planning process? Would additional information concerning current and proposed use of cable facilities be helpful in the satellite planning process? If so, identify the type of information and how it would be used.

2. Within the planning process for satellite facilities, what effect would the availability or the non-availability of additional TAT cables in the 1979-85 time period have on the timing, capacity, design, configuration, saturation date, investment, etc. of future satellite facilities?

3. Considering only service reliability factors (diversity, redundancy, grade of service, etc.) within the satellite planning process, would it be necessary to modify plans for proposed satellite facilities assuming (a) no additional TAT cable facilities are available in the 1979-85 time period? (b) an additional SG-type TAT cable available in the 1980 or 1981? Explain your response in detail, separating the space segment from the ground segment.

4. Answer previous question 3 considering only capacity requirements. (E.g., would additional space segment capacity be required as a direct result of no additional cable capacity?)

5. Considering that the INTELSAT traffic data base is used in satellite planning and that the data base reflects projected satellite traffic only and not total traffic, would it be reasonable to assume that planned satellite facilities would not be capable of satisfying total traffic requirements in the North Atlantic absent any additional cable capacity in the 1979-85 time period? Explain the reasons for your answer.

6. What is the planning scenario for satellite facilities in the 1979-85 time frame? What factors will determine the need and timing for introduction of an INTELSAT V satellite in the Atlantic region? To what extent would the intro-

duction of an SG TAT-7 cable in 1980 or 81 affect the need and/or timing of an Atlantic V satellite? Explain in general and, in particular, with respect to service reliability factors and capacity requirements.

#### K. ADDITIONAL QUESTIONS ADDRESSED SPECIFICALLY TO AT&T AND THE INTERNATIONAL RECORD CARRIERS (IRC)

1. What information do you maintain concerning the current and proposed configuration of the INTELSAT space segment and U.S. earth stations? How is this information considered in the cable planning process? Would additional information concerning current and proposed use of satellite facilities be helpful in the cable planning process? If so, identify the type of information and how it would be used.

2. Within the planning process for cable facilities, what effect would the availability or the non-availability of additional satellite facilities for North Atlantic traffic in the 1979-85 time period have on the timing, capacity, design, utilization, investment, etc. of future cable facilities?

3. Considering only service reliability factors within the cable planning process, would it be necessary to modify plans for proposed cable facilities assuming (a) no additional satellite capacity is available for North Atlantic traffic in the 1979-85 time frame? (b) Assuming IN-TELSAT V becomes available in 1979, 80, 81, 82, 83, 84, or 85. Explain your response in detail.

4. Answer previous question 3 considering only capacity requirements (e.g., to what extent, if any, do present cable plans assume additional satellite capacity will be available in 1979-85 time period?)

5. Approximately what percent of your total traffic projections for U.S. Europe traffic is reflected in the INTELSAT traffic data base as updated in September, 1975? How did you arrive at the projections of satellite traffic as a portion of total traffic projections?

6. What is the planning scenario for TAT cables in the 1979-85 time frame? What factors will determine the need for and timing of a TAT-7 cable? Would the need for or timing of TAT-7 be affected by the timing of the introduction of IN-TELSAT V in the Atlantic region (e.g., 1979-82). Explain in general and, in particular, with respect to service reliability factors and capacity requirements.

#### L. TECHNOLOGICAL DEVELOPMENTS

To the extent not covered in responding to the above questions, describe, to the extent possible, any major developments in technology which you believe will be available for application in the 1975-85 time frame. What impact will such developments have on facilities planning and how should the Commission take them into consideration in formulating policies?

7. Each common carrier engaged in overseas communications should submit the information called for above to the

extent applicable to it. In addition, all interested parties are invited to submit comments on the matters discussed herein. Comments and the information requested in Sections A, E, F, G, H, J and K should be filed on or before November 30, 1975. Comments and information concerning the remaining Sections should be filed at the same time, if possible. However, an additional 30 days is provided for submission of the information in Sections B, C, D, I and L. An original and 11 copies should be filed. Each carrier engaged in overseas communications should furnish a copy of all of its filings to each of the other carriers so engaged. All relevant and timely information and comments submitted will be considered by the Commission. The Commission may also take into account other pertinent information before it.

Adopted: October 15, 1975.

Released: October 21, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc. 75-28835 Filed 10-24-75; 8:45 am]

[PCC 75R-385]

#### ROCKET RADIO, INC. AND APOSTOLIC COUNCIL OF CHURCHES, INC.

##### Memorandum Opinion and Order Enlarging Issues

In re applications of Rocket Radio, Inc., Fort Valley, Georgia, Docket No. 20181, File No. BPH-8408, Apostolic Council of Churches, Inc., Fort Valley, Georgia, Docket No. 20182, File No. BPH-8798. For Construction Permits.

1. The above-captioned mutually exclusive applications were designated for consolidated hearing by Memorandum Opinion and Order, FCC 74-952, 39 FR 33827, published September 20, 1974. Presently before the Review Board is a petition to enlarge issues, filed March 17, 1975, by Rocket Radio, Inc. (Rocket), requesting the addition of misrepresentation and abuse of process issues against Apostolic Council of Churches, Inc. (Apostolic).<sup>1</sup>

2. In support of the requested issues, Rocket argues that Apostolic misrepresented various facts contained in its petition for continuance and prehearing conference, filed with the Administrative Law Judge on February 20, 1975.<sup>2</sup> Spe-

<sup>1</sup> Rocket's petition and responsive pleadings, together with other pending petitions, were referred to the Review Board for consideration and disposition by Commission Memorandum Opinion and Order, FCC 75-927, released August 12, 1975.

<sup>2</sup> Also before the Board are the following related pleadings: (a) opposition, filed March 21, 1975, by Apostolic; (b) comments, filed April 1, 1975, by the Broadcast Bureau; and (c) reply, filed April 7, 1975, by Rocket.

<sup>3</sup> That petition was subsequently supported by an affidavit of Apostolic's president, Charles R. Cobb, dated February 22, 1975, and filed on February 26, 1975.



cifically, petitioner notes that to substantiate its alleged need for additional time Apostolic stated:

Most important, a continuance is now required because a tornado caused serious damage in Fort Valley on February 18, 1975.<sup>4</sup> Apostolic's church, which is in the area of Fort Valley most severely damaged by the storm, was moved off its foundation, and a large portion of the roof was torn off. Repair of the church structure will require a significant amount of Mr. Cobb's time in the next few weeks, depriving him of any possibility of adequately preparing for a hearing on March 3, 1975. Mr. Cobb is the Bishop of the Apostolic Council of Churches, and his responsibility for undertaking the repair of the church is direct. Moreover, Mr. Cobb feels a heavy moral responsibility to care for members of his flock affected by the storm. The precise extent of damage and possible injury suffered by members of the Apostolic Council of Churches is not yet known, but several members reside in the area most severely damaged. It is not even clear at this point whether Mr. Cobb can be available March 3 to come to Washington.

However, relying on a February 28, 1975 affidavit of Frank Flowers, a Fort Valley building inspector; a March 1, 1975 affidavit of Edward C. Woodward, president of the Peach County Home Builders Association, Inc.; and a notarized photograph of the church taken on March 1, 1975, Rocket contends that the damage to the church roof was minor and the structure was not displaced from its foundation.<sup>5</sup> In addition, Rocket asserts that as of the date of the filing of the petition for continuance, entrance to and from Fort Valley was not obstructed and telephone service was completely restored for both incoming and outgoing long distance calls. Furthermore, petitioner maintains that the church was in an area of the city on the fringes of a damaged section. Petitioner asserts that a possible motive for Apostolic's request for a continuance was to secure additional time in which to again revise its financial and ascertainment showings and to obtain a new site.<sup>6</sup> To support this

assertion, Rocket alleges that Cobb attempted unsuccessfully to obtain a loan from the Bank of Byron, Georgia, on or about February 25, 1975, and that land records of Peach County reveal that Cobb or Apostolic recently purchased a parcel of unimproved land, which, Rocket notes, could serve as a new site. Finally, petitioner maintains that an abuse of process issue is also warranted since Apostolic based its request for a continuance on the above-noted misrepresentations.

3. In opposition, Apostolic first asserts that the church had been moved off its foundation and its roof damaged by the February 18 tornado. In support, Apostolic provides the affidavits of Cobb; two local residents, Francis Rumph and Alfred Scott; and D. G. Hunt, an insurance adjuster, who state that they saw that the church was moved off its foundation.<sup>7</sup> Furthermore, Cobb also avers that on February 25, 1975, after the church was inspected by an insurance adjuster, he (Cobb) obtained a railroad jack and with the help of several volunteers, was able to replace the church on its foundation;<sup>8</sup> that on March 1, 1975, while repairing the church, he was approached by Flowers who told him not to make any repairs to the church since it might be damaged to the point where it would be necessary to tear it down; and that Flowers' statement in his February 28, 1975, affidavit that he inspected the church on February 20, 1975, and found only "minor roof damage," is inconsistent with his March 1 order to stop repair work on the church. With regard to the question of access to and from Fort Valley, Apostolic submits the affidavit of Sergeant W. D. Blackstock who states that shortly after the storm, roads around Fort Valley were closed to all traffic, that the next day only emergency traffic was allowed to enter, that this lasted in certain parts of town for 3 days, and that the section east of town was closed until late on February 22. Consequently, Apostolic concludes that Rocket's contention that as of February 20 entrance and exit from Fort Valley were not restricted is untrue. Turning to the question of phone service, Apostolic submits an affidavit from J. D. Walker, District Manager of Southern Bell Telephone Company. According to Apostolic, since Walker avers that on February 24, 1975, crews from Southern Bell were still at work in an attempt to restore service to the area of Fort Valley, Rocket is also in error in alleging that telephone service was completely restored by February 20. Next, opposer

submits an aerial photograph which allegedly indicates that the church is in fact in the area of the city most heavily damaged by the tornado. In any event, continues Apostolic, whether the church is on the fringe or in the center of the heavily damaged area is irrelevant. Finally, Apostolic asserts that a question is raised as to whether Rocket has abused the Commission's processes since the applicant has repeatedly submitted false or irrelevant affidavits "without reasonable cause for believing in the accuracy thereof," citing *Vernon E. Pressley, FCC 61-1104, 22 RR 100, 102 (1961)*.<sup>9</sup>

4. In reply, Rocket argues that Apostolic has not effectively challenged the accuracy of Flowers' affidavit. Specifically, Rocket maintains that Cobb's affidavit is argumentative, conclusory, and self-serving, that Hunt's statement is unverified and does not indicate the date he inspected the church and that the "Sworn Statement of Proof of Loss," is undated, does not describe the damage and does not contain any jurat. With regard to the affidavit Apostolic submitted from Sgt. Blackstock, Rocket submits two further affidavits from that officer. In these affidavits Blackstock avers that the affidavit he executed for Apostolic has a jurat and a typewritten statement below his signature which were not done in his presence, that he never appeared before Albert Miller (the notary), that Miller has not witnessed his signature,<sup>10</sup> and that while roads in and around Fort Valley were closed after the storm, persons residing or having business in the affected areas were permitted to enter and to leave. Finally, Rocket also submits a subsequent affidavit from J. D. Walker. Therein, Walker states that 100 percent service in all areas of the city excepting certain locations within the downtown business area and in the Griffinline area was restored by 4:00 p.m. on February 19, 1975, and that service was not disrupted in the area of Pear Street. In this regard, Rocket notes that Apostolic's FCC Form 301 indicates that Cobb resides at 309 Pear Street.<sup>11</sup>

5. The Review Board will add the requested misrepresentation issue. There is a serious conflict in the various affidavits submitted by the parties, which raises a substantial question regarding the actual extent of the tornado damage to Apostolic's church and the truthfulness

<sup>4</sup> The tornado caused damage estimated at \$2.8 million in Fort Valley, while killing one person and injuring one hundred more. The Governor has declared Fort Valley an emergency area. See Exhibit A. Entrance to and exit from the city is restricted, and communications are disrupted. Mr. Cobb presently can receive incoming telephone calls, but he cannot make outgoing long distance calls.

<sup>5</sup> In particular, Flowers avers that on February 20, 1975, his inspection revealed that the only damage the Apostolic Church sustained was minor roof damage at the rear of the building. Woodward avers that on March 1, 1975, his examination of the structure revealed that it was setting on its foundation as it was placed prior to the tornado of February 18, 1975, and that the only apparent damage was to a minor portion of the roof at the rear of the Church. The notarized photograph is a frontal view and indicates that the church is resting on its foundation.

<sup>6</sup> In this regard, Rocket notes that Apostolic's recent attempt to amend was rejected by Order of the Administrative Law Judge, FCC 75M-308, released February 27, 1975, and that Apostolic faces financial, suburban and site availability and suitability issues.

<sup>7</sup> In addition, Cobb, Rumph and Scott state that the roof was damaged and a "Sworn Statement in Proof of Loss", which accompanies Hunt's affidavit, estimates the damage to the church to be approximately \$2,000.00.

<sup>8</sup> Accordingly, Apostolic concludes that on March 1, when Woodward inspected the church and the photograph in question was taken, the structure had already been replaced on its foundation and some repairs made.

<sup>9</sup> In support, Apostolic notes that Rocket previously raised most of the same allegations in its petition for expedited relief, filed with the Commission March 4, 1975, and that by its response of March 11, 1975, Apostolic showed that Rocket's pleading was accompanied by false and irrelevant affidavits and that there was no substance to those allegations.

<sup>10</sup> Pursuant to a petition to enlarge, filed by Rocket on April 11, 1975, the Review Board, by Memorandum Opinion and Order, FCC 75R-343, released September 12, 1975, added an issue to inquire into the circumstances surrounding the affixing of the jurat on the statement signed by Sgt. Blackstock.

<sup>11</sup> The Broadcast Bureau supports the addition of both requested issues.



ness of applicant's representations about that damage in its petition for continuance and prehearing conference, filed on February 20, 1975. Specifically, there is a direct conflict between Flower's affidavit, which states that his inspection of the church on February 20, 1975, revealed that the only damage sustained as a result of the tornado was minor roof damage, and the statements in affidavits by Cobb, Rumph and Scott to the effect that the church was off its foundation and Cobb's additional assertion that a large hole was torn in the roof. In our view, the conflict in these affidavits is sufficient in itself to justify adding the requested issue. See *Rosemar Broadcasting Company, Inc.*, 46 FCC 2d 1182, 30 RR 2d 360 (1974); and *Christian Voice of Central Ohio*, 26 FCC 2d 76, 20 RR 2d 389 (1970).<sup>12</sup> However, the balance of Rocket's allegations concerning false representations made by Apostolic in support of its petition of February 20, either false or substantial questions or have been adequately answered by Apostolic's opposition.<sup>13</sup>

6. ACCORDINGLY IT IS ORDERED, That the petition to enlarge issues, filed August 14, 1975, by Rocket Radio, Inc., IS GRANTED to the extent indicated herein, and IS DENIED in all other respects; and

7. IT IS FURTHER ORDERED, That the issues in this proceeding ARE ENLARGED to include the following issues:

(a) To determine whether Apostolic Council of Churches, Inc., has made misrepresentations to the Commission in connection with its petition for continuance and prehearing conference, filed February 20, 1975.

(b) To determine in light of the evidence adduced pursuant to the above issue, whether Apostolic Council of Churches, Inc. possesses the basic and/or comparative qualifications to be a Commission licensee; and

8. IT IS FURTHER ORDERED, That the burden of proceeding with the introduction of evidence and the burden of proof under the issues (a) and (b) added herein SHALL BE on Rocket Radio, Inc.

Adopted: October 15, 1975.

Released: October 22, 1975.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary,

[FR Doc.75-28838 Filed 10-24-75; 8:45 am]

<sup>12</sup> In this regard, we note that in a companion document adopted the same date, the Board is adding a misrepresentation issue against Rocket, pursuant to a petition to enlarge issues, filed by Apostolic, on March 11, 1975, predicated on the same set of conflicting affidavits as are under consideration here.

<sup>13</sup> In our view, the affidavits of Walker and Blackstock, submitted in reply by Rocket, do not directly contradict the representations made by Apostolic in its petition for a continuance.

FEDERAL ENERGY  
ADMINISTRATION

CONSUMER AFFAIRS/SPECIAL IMPACT  
ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Consumer Affairs/Special Impact Advisory Committee will meet Thursday, November 20, 1975, at 9:00 a.m., Room 7132, 12th and Pennsylvania Avenue, NW., Washington, D.C.

The Committee was established to provide the Federal Energy Administration with diversified information possessed by a wide range of highly qualified individuals who have been extensively involved in planning, development, and implementation of programs to remedy the problems of the consumer, the poor, the elderly, and the handicapped persons in rural and urban America.

The agenda for the meeting is as follows:

1. Committee policies toward proxies and absenteeism.
2. Scheduling of subcommittee meetings.
3. Reports from subcommittees.
  - a. Utility issues—UCAN program.
  - b. Mutual consumer and environmental interests—economics of nuclear vs. solar energy.
  - c. Social relief programs—impact of rising energy prices on the physically disabled.
  - d. Impact of energy policy on the cities—tax rebates for weatherization of homes.
  - e. Pricing—impact of the deregulation of natural gas on natural gas supplies.
  - f. Consumer participation issues.

Subcommittees may meet informally in Washington the preceding evening at the discretion of the Subcommittee chairmen. For further details, contact Lois G. Weeks, Advisory Committee Management Officer at (202) 961-7022.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make an oral statement should inform Lois Weeks at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on October 22, 1975.

DAVID G. WILSON,  
Acting General Counsel.

[FR Doc.75-28867 Filed 10-22-75; 4:16 pm]

FEDERAL POWER COMMISSION

[Docket No. RP75-80]

ALABAMA-TENNESSEE NATURAL GAS CO.  
Settlement Conference

OCTOBER 16, 1975.

Take notice that on Monday, November 3, 1975, Staff is convening a settlement conference for the purpose of discussing the issues in the above referenced docket with a view toward settling these proceedings at 10 a.m., in Room 8402 at the offices of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Pursuant to section 1.18 of the Commission's rules of practice and procedure, all parties will be expected to come fully prepared to discuss the merits of all issues arising in these proceedings and to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference. Customers and other interested persons will be permitted to attend, but such attendance at the conference will not be deemed to authorize intervention as a party in the proceedings. A petition to intervene tendered pursuant to section 1.8 of the Commission's rules of practice and procedure is required for that purpose.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28791 Filed 10-24-75; 8:45 am]

[Docket No. RP75-68]

ALGONQUIN GAS TRANSMISSION CO.  
Notice of Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

OCTOBER 17, 1975.

Take notice that Algonquin Gas Transmission Company (Algonquin Gas), on October 3, 1975, tendered for filing Alternate (Corrected) Substitute Eighth Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to its Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. Algonquin Gas states that the rate change is being filed to reflect a change in purchased gas costs to be paid by Algonquin Gas to its supplier, Texas Eastern Transmission Corporation, (Texas Eastern) effective October 1, 1975, as a result of a general rate increase filed by Texas Eastern on March 14, 1975, as later revised by its filing of September 26, 1975, in Docket No. RP75-73.

The proposed effective date of the revised tariff sheet is October 23, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be



filed on or before November 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28800 Filed 10-24-75; 8:45 am]

[Docket No. RP72-142, PGA76-1]

#### CITIES SERVICE GAS CO.

##### Proposed Changes in FPC Gas Tariff

OCTOBER 16, 1975.

Take notice that Cities Service Gas Company (Cities Service) on October 9, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that the proposed changes are based solely on increased purchase gas costs which will result from filings by two of its pipeline suppliers, Transwestern Pipeline Company (Transwestern) and Oklahoma Natural Gas Gathering Corporation (ONGG). Transwestern's motion dated September 26, 1975, in Docket No. RP75-74, proposes certain alternate increased rates to be effective October 1, 1975. ONGG's increased rate was approved by the Commission by order issued July 16, 1975, in Docket Nos. RP72-115 and PGA-2, to be effective July 2, 1975.

Cities Service states that it has filed its Revised Twelfth Revised Sheet PGA-1 to reflect the rates on Transwestern's First Revised Sheet Nos. 5 and 6 and the rate on ONGG's Seventh Revised Sheet PGA-1. Alternatively, Cities Service states that it has filed its Alternate Revised Twelfth Revised Sheet PGA-1 to reflect the rates on Transwestern's Original Sheet Nos. 5 and 6 and the same above-mentioned ONGG tariff sheet.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceeding in Docket Nos. RP72-142 and RP75-27.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28792 Filed 10-24-75; 8:45 am]

[Docket No. CP76-115]

#### CITIES SERVICE GAS CO.

##### Notice of Application

OCTOBER 16, 1975.

Take notice that on October 2, 1975, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP76-115, an application pursuant to Section 7(c) of the Natural Gas Act, as implemented by Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1976, and operation of certain natural gas purchase facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or other pipelines authorized to transport gas for or exchange gas with Applicant.

The total cost of the proposed facilities would not exceed \$6,000,000, and the cost of a single project would not exceed \$1,500,000, which costs Applicant states would be financed from treasury funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28793 Filed 10-24-75; 8:45 am]

[Docket No. CP74-204]

#### COLUMBIA GULF TRANSMISSION CO. AND NATURAL GAS PIPELINE COMPANY OF AMERICA

##### Amendment to Application

OCTOBER 16, 1975.

Take notice that on September 23, 1975, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, jointly Applicants, filed in Docket No. CP74-204 an amendment to their application, as amended, for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act requesting authorization for Natural and Columbia Gulf to transport and exchange for and with each other up to 30,000 Mcf of gas per day in addition to the 75,000 Mcf of gas per day originally proposed to be transported and exchanged, all as more fully set forth in the amendment to application on file with the Commission and open to public inspection.

Natural and Columbia Gulf state that by an application filed February 11, 1975,<sup>1</sup> as amended on June 26, 1974 and August 12, 1974, they requested, *inter alia*, authorization for a transportation and exchange arrangement under which Natural would make available up to 75,000 Mcf per day of pipeline delivery capacity from its entitlement in the system of Stingray Pipeline Company (Stingray) to transport gas available to Columbia Gulf in the West Cameron Area, offshore Louisiana, and Natural would deliver up to 75,000 Mcf per day of gas into the Blue Water Project which is owned jointly by Columbia Gulf and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee).

Natural and Columbia Gulf state that they now have volumes in excess of the 75,000 Mcf of gas per day estimated when the application originally was filed. The additional volumes would be available to Natural from Block 331, Eugene Island Area, offshore Louisiana, beginning in the fall of 1975 and continuing through the 1976-1977 heating season, and Columbia would have available to it additional volumes from Blocks 485-507 and 531, West Cameron Area, offshore Louisiana, for transportation on behalf of its affiliate, Columbia Gas Transmission Corporation (Columbia Transmission), for a indefinite period beginning about August 1, 1976.

Applicants allege that pursuant to a letter agreement between Natural and Columbia Gulf dated August 18, 1975,

<sup>1</sup> Notice published March 12, 1974 (39 FR 9575).



30,000 Mcf of additional gas capacity would be made available by Natural to Columbia Gulf for so long as the combined production rates from the West Cameron blocks exceed 75,000 Mcf of gas per day, and up to 30,000 Mcf per day additional capacity in the Blue Water Project would be made available by Columbia Gulf for as long as Block 331 production would support production in excess of 57,000 Mcf of gas per day to the Blue Water Project.

It is stated that pursuant to their letter agreement, if Natural utilizes the additional capacity prior to the delivery of gas by Columbia Gulf to the Stingray System under the proposed exchange agreement, charges for the transportation agreement of August 9, 1974; but if Columbia first tenders gas to Stingray, the transportation and any exchange charges would be in accordance with an existing gas exchange agreement dated October 12, 1973. It is indicated that Columbia Gulf would pay Natural 4.6 cents per Mcf of gas delivered to Columbia Gulf pursuant to their transportation agreement dated August 9, 1974.

The proposed exchange agreement would be effected by deliveries of gas by Columbia Gulf to existing Stingray facilities in the West Cameron Area and by Natural to Blue Water facilities in the Eugene Island Area, with corrections for imbalances at the Cameron Meadows Plant of Mobil Oil Corporation in Cameron Parish, Louisiana, and the Henry Plant of Texaco Inc. in Vermilion Parish, Louisiana.

Pursuant to a letter agreement dated September 10, 1975, Tennessee would transport additional volumes for Natural and Columbia Transmission to the Blue Water Project. It is stated that no additional facilities would be required to effectuate any of the proposed transportation arrangements.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 5, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who heretofore filed protests, petitions to intervene and notices of intervention in the instance proceeding need not file again.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28794 Filed 10-24-75; 8:45 am]

[Docket No. E-9216]

#### DAYTON POWER AND LIGHT CO.

##### Notice of Further Extension of Hearing Date

OCTOBER 17, 1975.

On October 10, 1975, Staff Counsel filed a motion to extend the hearing date fixed by order issued February 19, 1975, as most recently modified by notice issued July 28, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the hearing date in the above proceeding is extended from October 21, 1975 to October 29, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28801 Filed 10-24-75; 8:45 am]

[Docket Nos. E-8082, E-7994, E-7720, E-7557]

#### DUKE POWER CO.

##### Filing of Refund Report

OCTOBER 17, 1975.

Take notice that on October 7, 1975 Duke Power Company tendered for filing a report which shows the amounts to be refunded to Duke's wholesale customers pursuant to the settlement agreement in the above-mentioned dockets.

Any person desiring to be heard or to comment upon said report should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 3, 1975. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28802 Filed 10-24-75; 8:45 am]

[Docket No. RP72-134]

#### EASTERN SHORE NATURAL GAS CO.

##### Notice of Purchased Gas Cost Adjustment to Rates and Charges

OCTOBER 17, 1975.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on October 6, 1975, tendered for filing Substitute Thirteenth Revised Sheet No. 3A and Substitute Thirteenth Revised PGA-1 to its FPC Gas Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by approximately \$168,537 annually based on sales for the twelve-month period ending August 31, 1975.

Pursuant to Section 154.51 of the Regulations under the Natural Gas Act, Eastern Shore requests waiver of the notice requirements of Section 154.22 of those Regulations and of Section 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary, to permit the tariff sheets submitted herewith to become effective as of October 1, 1975, to coincide with the proposed effective

date of Transco's rate changes. In support thereof, Eastern Shore states that Transco's September 16 filing prevented it from meeting the appropriate notice requirements.

Pursuant to the Purchased Gas Adjustment Clause contained in its tariff, Eastern Shore proposes to increase the commodity or delivery charges in its Rate Schedules CD, CD-E, G-1, E-1, I-1, GSS-1 and PS-1 equivalent to the increases in the similar rates of its sole supplier, Transcontinental Gas Pipe Line Corporation, as contained in the latter's filing in Docket No. RP75-75 dated September 16, 1975.

Copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 5, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28803 Filed 10-24-75; 8:45 am]

#### GAS GATHERING CORP.

[Docket No. RP76-21]

##### Filing Rate Increase

OCTOBER 17, 1975.

Take notice that on September 29, 1975 the Gas Gathering Corporation (GGC) tendered for filing Supplement No. 24 to its Rate Schedule No. 2, which will serve to increase its rate to Transcontinental Gas Pipe Line Corporation (Transco), GGC's sole customer, from 31.025¢ per Mcf on a pressure base of 15,025 psia at 60°F to 35.24¢ per Mcf. GGC was classified as a pipe line company by a July 2, 1975 order issued in Docket No. CI75-34. GGC states that its estimated sales to Transco over the next twelve months are less than half of the volume sold during the twelve month period which ended June 30, 1974, or a reduction in two years of 52.9%, while costs of operations have increased approximately 15%.

GGC requests a waiver of the notice requirements of the Commission's Regulations to permit an effective date of August 1, 1975, in accordance with an agreement with Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol



Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 29, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28804 Filed 10-24-75;8:45 am]

[Docket No. ER76-166]

# IOWA POWER AND LIGHT CO. Change in Rate Schedule

OCTOBER 16, 1975.

Take notice that Iowa Power and Light Company (Iowa Power) on October 6, 1975 tendered for filing the First Amendment to the Interconnection Agreement between Iowa Power and Light Company and Omaha Public Power District dated July 12, 1968 as proposed Supplement No. 7 to Iowa Power Rate Schedule FPC No. 5.

The First Amendment provides for the establishment of points of delivery between the two companies and further specifies the nature of facilities to be made available for the use of both parties for the interchange of electric power and energy under the terms of the basic Interconnection Agreement and Service Schedules attached thereto.

The purpose of these additional facilities and delivery points is to further increase the interchange and displacement capabilities between the systems of both companies and facilitate coordinated development of adequate transmission capacity for service to customers of the companies at minimum cost.

Iowa Power requests the Commission to waive the prior notice requirements of Section 35.3(a) and accept this rate schedule for filing with the retroactive effective date of May 1, 1968 pursuant to Section 35.11 of the Commission's regulations. Iowa Power states that copies of the filing have been served upon Omaha Public Power District and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 29, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

sion and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28795 Filed 10-24-75;8:45 am]

[Docket No. RP76-25]

# McCULLOCH INTERSTATE GAS CORP.

## Proposed Changes in Rates and Charges

OCTOBER 17, 1975.

Take notice that on October 9, 1975, McCulloch Interstate Gas Corporation

| Test year volume | Units | Contract rate (cents) | Proposed rate (cents) | Increase (cents) | Increase (dollars) |
|------------------|-------|-----------------------|-----------------------|------------------|--------------------|
| 3,175,000        | Mcf   | 3.50                  | 9.76                  | 6.26             | 198,790            |
| 4,010,000        | MMBtu | 2.77                  | 7.73                  | 4.96             | 198,912            |

Proposed effective date of such revised tariff sheets is November 1, 1975.

On September 16, 1975, McCulloch Interstate received copies of the FPC Staff's proposed answering testimony in these overall rate increase proceedings. Except for some other adjustments of minor extent, the FPC Staff's principal adjustment was to recommend increases in the cost of McCulloch Interstate's transportation of gas for Mountain Fuel's account. This filing is made in order to put the FPC Staff's recommendations into effect, as modified by McCulloch Interstate, according to McCulloch.

Because the increased rates are proposed to replace rates now under suspension, McCulloch asks that the Commission make the increases requested here effective on the same date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 31, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28805 Filed 10-24-75;8:45 am]

[Docket No. ER76-163]

# ROCHESTER GAS AND ELECTRIC CORP.

## Filing of Firm Power Contract

OCTOBER 16, 1975.

Take notice that Rochester Gas and Electric Corporation (Rochester), on October 6, 1975, tendered for filing a rate schedule providing for the sale by Rochester to Consolidated Edison Company of New York, Inc. (Con Edison) of 150 MW of firm capability and associated

(McCulloch) tendered for filing the following Revised Sheets to its Federal Power Commission Gas Tariff, Original Volume No. 1:

## MOUNTAIN FUEL SUPPLY COMPANY

First Revised Sheet No. 38, covering increased rates for the transportation of natural gas south from the Spearhead Ranch Area of Campbell County to Douglas, Wyoming, for the account of Mountain Fuel Supply Company.

energy. Rochester requests that the Commission waive the 30-day notice requirement and permit the rate schedule to be effective as of October 26, 1975.

According to Rochester, a copy of the filing was served upon Con Edison and the New York Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28796 Filed 10-24-75;8:45 am]

[Docket No. RP74-24]

# TENNESSEE GAS PIPELINE CO.

## Further Extension of Time

OCTOBER 16, 1975.

On October 10, 1975, Staff Counsel filed a motion to extend the time for filing briefs opposing exceptions to the Presiding Administrative Law Judge's Initial Decision issued July 9, 1975, in the above-designated proceeding.

The date for filing briefs opposing exceptions was set by notice issued July 29, 1975, as most recently modified September 26, 1975.

Notice is hereby given that the date for filing briefs opposing exceptions in the above proceeding is extended from October 20, 1975, to and including October 28, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28797 Filed 10-24-75;8:45 am]



[Docket No. RP75-75]

TRANSCONTINENTAL GAS PIPE LINE  
CORP.Order Rejecting Tariff Sheets Without  
Prejudice and Granting Intervention

OCTOBER 16, 1975.

On September 16, 1975, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.<sup>1</sup> Together with those substitute tariff sheets, Transco filed a motion to make effective as of October 1, 1975, those rates, suspended by Order issued April 30, 1975, in Docket No. RP75-75, as adjusted to reflect: (1) the elimination of certain costs for carrying charges under an advance payment agreement with Louisiana Land and Exploration Company<sup>2</sup>; (2) a net increase in advance payments of \$47,531,236 over the amounts originally filed herein, and (3) an increase in the rates for storage service under Rate Schedule S-2 tracking increased storage costs from Texas Eastern Transmission Corporation (Texas Eastern) under the latter's Rate Schedule X-28.

The aforementioned advance payment adjustment reflects the cumulative effect of four advance payment tracking filings previously made by Transco pursuant to tracking authority in Transco's pending settlement agreement in Docket Nos. RP74-48 and RP75-3.<sup>3</sup> Those previous advance payment tracking filings<sup>4</sup> were rejected as being premature.<sup>5</sup>

In addition, Transco's increased rate under Rate Schedule S-2, tracking increased storage costs from Texas Eastern under the latter's Rate Schedule X-28, was also included in a previous filing pursuant to tracking authority in Transco's pending settlement agreement and was rejected for being premature. In the instant filing, however, Transco does not rely upon the tracking authority for in-

creased storage costs contained in the pending settlement. Rather, Transco relies upon the tracking authority we have granted them in the past on a case by case basis to track such increases.<sup>6</sup>

Public notice of the subject filing was issued on September 24, 1975, with comments, protests and petitions to intervene due on or before October 9, 1975. A timely petition for leave to intervene was filed by Sun Oil Company. Good cause appearing, said petition shall be granted, as hereinafter ordered and conditioned.

As noted above, the advance payment adjustment is made pursuant to provisions in the settlement agreement in Docket Nos. RP74-48 and RP75-3. Those provisions would permit the tracking of advances from Transco to producers of natural gas. However, because we have not yet taken any action on said settlement agreement, Transco, as of this date, has no authority to track the increases here in question. Regardless of the status of the settlement agreement in Docket Nos. RP74-48 and RP75-3, however, Transco will not be permitted to amend the suspended rates in the immediate docket to reflect additional advance payments pursuant to settlement tracking authority in another docket. Accordingly, that portion of the instant filing reflecting an adjustment for a net increase in advance payments over the amounts originally filed for must be rejected. Further, that portion of the instant filing consisting of a proposed adjustment in the suspended rates in this docket to reflect an increase in the rates for storage service under Rate Schedule S-2, tracking increased storage costs from Texas Eastern, shall be approved conditioned on Transco's filing the appropriate tariff sheets to become effective, subject to refund. Transco's substitute tariff sheets should reflect the elimination of certain costs for carrying charges under the advance payment agreement with Louisiana Land and Exploration Company, as directed by Commission order issued September 9, 1975, in these proceedings and should not include the amount for additional advance payments filed herein.

**The Commission finds:** (1) Good cause exists to grant Sun Oil Company's petition for leave to intervene in this proceeding, as hereinafter ordered and conditioned.

(2) Good cause exists to reject the tariff sheets listed in footnote 1 of this order and deny Transco's request to re-

fect in the suspended rates additional advance payments over the amounts originally filed herein.

(3) The proposed adjustment in the suspended rates in this docket reflecting an increase in the rates for storage service under Rate Schedule S-2 to track increased storage costs from Texas Eastern in the latter's Rate Schedule X-28 should be approved subject to Transco's filing the appropriate tariff sheets, which would become effective subject to refund in these proceedings.

(4) Those substitute tariff sheets reflecting a storage service increase shall eliminate, as ordered by this Commission, certain costs for carrying charges under the advance payment agreement with Louisiana Land and Exploration Company and shall also not include those additional advance payments not originally filed herein.

**The Commission orders:** (A) Sun Oil Company is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) Transco's proposed tariff sheets, filed September 16, 1975 in this docket and listed in footnote 1 of this order, are hereby rejected.

(D) Transco's request to reflect in the suspended rates in the instant docket additional advance payments over the amounts originally filed herein is denied.

(E) Transco's proposed adjustment in the suspended rates in this docket reflecting an increase in the rates for storage service under Rate Schedule S-2 to track increased storage costs from Texas Eastern in the latter's Rate Schedule X-28 is hereby approved subject to Transco's filing the appropriate tariff sheets in compliance with the conditions set forth hereinbelow in Ordering Paragraph (F), such sheets to become effective subject to refund in these proceedings.

(F) Those substitute tariff sheets reflecting a storage service increase shall eliminate, as directed by this Commission by order issued September 9, 1975, in these proceedings, certain costs for carrying charges under the advance payment agreement with Louisiana Land and Exploration Company and shall also not include those additional advance payments not originally filed herein.

<sup>1</sup> These revised sheets are designated Substitute Fourteenth Revised Sheet No. 5 and Substitute Tenth Revised Sheet No. 6 to First Revised Volume No. 1; and Substitute Fifteenth Revised Sheet No. 52, Substitute Second Revised Sheet No. 121, Substitute Eleventh Revised Sheet No. 321, Substitute Fourth Revised Sheet No. 351, Substitute Seventh Revised Sheet No. 416, and Sixth Revised Sheet No. 495 to Original Volume No. 2.

<sup>2</sup> Commission order issued September 9, 1975, in the instant docket.

<sup>3</sup> "Agreement as to Rates" in Docket Nos. RP74-48 and RP75-3 was certified to the Commission on May 16, 1975.

<sup>4</sup> Filed in Docket Nos. RP74-48 and RP75-3 by Transco on May 16, 1975 (AP75-1), June 16, 1975 (AP75-2), July 16, 1975 (AP76-1) and August 15, 1975 (AP76-2).

<sup>5</sup> By orders issued June 30, 1975, July 25, 1975, August 29, 1975, and September 29, 1975, respectively, Transco's advance payments tracking filings were rejected because we had not yet acted on the aforementioned Agreement, pursuant to which the tracking filings were made. However, those rejections were without prejudice to Transco's right to make advance payment tracking filings in the event the tracking provision is approved at a later date.

<sup>6</sup> See e.g. Order issued October 26, 1970, in Docket No. RP71-10 (Transco's Rate Schedule S-2); Order issued June 30, 1971, in Docket No. RP71-124 (Transco's Rate Schedule GSS); Order issued July 2, 1971, in Docket No. RP71-123 (Transco's Rate Schedule S-2); Order issued July 13, 1972, in Docket No. RP72-131 (Transco's Rate Schedule S-2); Order issued May 30, 1974, in Docket No. RP73-69 (Transco's Rate Schedule S-2); Order issued August 1, 1974, in Docket Nos. RP73-69 and RP74-48 (Transco's Rate Schedule S-2); and Order issued August 30, 1974, in Docket Nos. RP74-48 and RP75-3 (Transco's Rate Schedule GSS).



(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28798 Filed 10-24-75; 8:45 am]

[Docket Nos. G-7516 and G-13445]

**WARREN PETROLEUM CO., A DIVISION  
OF GULF OIL CORP. (OPERATOR)**

**Notice of Application**

OCTOBER 16, 1975.

Take notice that on September 29, 1975, Warren Petroleum Company, a division of Gulf Oil Corporation (Operator) (Applicant), P.O. Box 1589, Tulsa, Oklahoma 74102, filed in Docket Nos. G-7516 and G-13445 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon in part the sale of surplus residue gas to El Paso Natural Gas Company (El Paso) attributable to gas purchased from production from the Waddell Lease in Crane County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been authorized to sell gas to El Paso pursuant to a surplus residue gas purchase agreement from Applicant's Waddell Gas Processing Plant in Crane County, Texas, by order issued May 28, 1956, in Docket No. G-7156, as amended, and by order issued February 24, 1958, in Docket No. G-13445. Applicant states further that part of the residue gas sold to El Paso after processing in the Waddell Plant was produced by Gulf Oil Corporation (Gulf) from the Waddell lease and that the portion attributable to gas formerly owned by Gulf under the Waddell lease has, since July 14, 1975, been owned by the reversionary mineral owners. Therefore, it is said, to the extent that such residue gas is attributable to the interests of the reversionary mineral owners in the Waddell Lease it is no longer available to Applicant for sale to El Paso.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 4, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections

7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28799 Filed 10-24-75; 8:45 am]

[Project No. 2507]

**CONFEDERATED SALISH AND KOOTENAI  
TRIBES OF THE FLATHEAD RESERVA-  
TION AND THE MONTANA POWER CO.**

**Further Extension of Procedural Dates**

OCTOBER 17, 1975.

On October 10, 1975, The Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana (the Confederated Tribes) filed a motion to extend the time within which to respond to the Motion of Staff Counsel to Dismiss Application for License, filed on July 1, 1975, in the above-designated proceeding. The time to respond to staff counsel's motion was most recently extended to October 16, 1975, by notice issued August 28, 1975.

On October 15, 1975, staff counsel filed a response in opposition to the motion of the Confederated Tribes. On October 16, 1975, The Montana Power Company filed a motion supporting the motion of the Confederated Tribes.

Notice is hereby given that the date within which to respond to Staff Counsel's motion is extended to and including October 31, 1975. No further extensions of this date will be permitted.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28814 Filed 10-24-75; 8:45 am]

[Docket No. RP74-100 (PGA 76-2)]

**NATIONAL FUEL GAS SUPPLY CORP.**

**Suspending Proposed PGA Rate Adjust-  
ment, Establishing Hearing Procedures  
and Instituting Investigation**

OCTOBER 17, 1975.

On September 19, 1975, National Fuel Gas Supply Corporation (National) filed a proposed PGA rate adjustment<sup>1</sup> reflecting (1) a 0.74 cents per Mcf increase in purchased gas costs, (2) a 0.58 cents per Mcf surcharge to recover \$833,164 of

<sup>1</sup> Substitute Fifth Revised Sheet No. 4 to National's FPC Gas Tariff, Original Volume No. 1.

deferred purchased gas costs, and (3) the elimination of the current 5.28 cents per Mcf surcharge. National requests waiver of the Commission's regulations to permit the proposed rate adjustments to become effective on October 1, 1975.

Notice of National's filing was issued on September 24, 1975, providing for protests or petitions to intervene to be filed on or before October 17, 1975. No protests, petitions to intervene, or other comments have been received in response to the notice.

A review of National's filing indicates that the proposed rates are predicated, in part, on the cost of purchased gas from small producers in excess of the rate levels prescribed in Opinion 742, issued on August 28, 1975. As a result, the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. National's proposed rates will therefore be accepted for filing, suspended for one day, and permitted to become effective thereafter on October 2, 1975, subject to refund.

With regard to the issue of small producers, we shall establish hearing procedures to determine the just and reasonable rate levels of those small producer purchases included in National's filing which are in excess of the rate levels resulting from use of the "130% formula" prescribed in Opinion No. 742. In this connection, we believe it appropriate to make the small producers involved respondents so that they may present evidence to show that the rates charged by them to National are just and reasonable. Although the small producers are not required to make refunds, we believe it appropriate to institute a Section 5 investigation against the small producers involved so that the just and reasonable small producer rate(s) determined in this proceeding can be applied prospectively.

Cost evidence relating to the small producer sales which are the subject of the hearing ordered herein can clearly provide the basis for "just and reasonable" rate findings, *F.P.C. v. Texaco Inc.*, 417 U.S. 380 (1974). Accordingly, we shall require the small producer respondents to submit cost evidence in order that we may determine the justness and reasonableness of National's rates and make appropriate prospective adjustments, if found necessary, to the small producer rates pursuant to our authority under Section 5 of the Natural Gas Act.

National must show that the rates paid to the small producers are just and reasonable by presenting evidence considering all relevant factors including, *inter alia*, (1) the pipeline's need for gas, (2) the availability of other gas supplies, (3) the amount of gas dedicated under the contracts, (4) the rates of other small producer sales previously approved and (5) comparison with appropriate market prices. (See Opinion 742, page 13).

Finally, the parties may submit any other evidence relevant to the Commission's determination of whether the rates



paid by the pipeline with respect to the subject small producer sales are just and reasonable.

Our review of National's proposed PGA rates indicates that with the exception of the increased purchased gas costs associated with that portion of small producer purchases in excess of the rate levels prescribed in Opinion 742, such rates are just and reasonable and should be approved. Accordingly, we shall permit National to file revised rates excluding that portion of small producer purchases in excess of the levels authorized by Opinion 742, to become effective on October 1, 1975, without refund obligation.

*The Commission finds:* (1) It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act, that a hearing be held to determine the justness and reasonableness of National's small producer purchases at rates in excess of the levels prescribed in Opinion 742.<sup>2</sup>

(2) Those small producers making sales to National at rates in excess of the level prescribed in Opinion 742 should be made respondents herein, and should be required to submit evidence of their project costs, as hereinafter ordered.

*The Commission orders:* (A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14 and 16 thereof, a public hearing shall be held on February 26, 1976 at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, to determine the lawfulness of National's PGA rates filed on September 19, 1975, insofar as those proposed rates reflect small producer purchases at rates in excess of the "130% formula" prescribed in Opinion 742.

(B) Pursuant to Section 5 of the Natural Gas Act, we hereby institute an investigation into the just and reasonable rate to be charged by the small producers making sales to National in excess of the rates resulting from the "130% formula" prescribed in Opinion 742, and consolidate such investigation with the hearing ordered in Paragraph (A) above for purposes of hearing and decision.

(C) The small producers listed on Appendix A are hereby made respondents to the hearing and investigation initiated by this order.

(D) National shall serve any evidence it wishes to present on or before December 1, 1975. The small producers listed on Appendix A shall also serve their evidence, if any, on or before December 1, 1975. Evidence by the Commission staff and any intervenor shall be served on or before January 15, 1976. Any rebuttal evidence shall be served on or before February 16, 1976.

(E) Each of the small producers listed on Appendix A, shall submit, on or before November 17, 1975, detailed cost data showing the cost of finding and producing gas for each project subject to this investigation.

<sup>2</sup> Dissenting statement by Nassikas filed as part of the original document.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see delegation of authority, 18 CFR 3.5 (d)), shall preside at the hearing to be held herein, and shall conduct such hearing in accordance with the Commission's rules and regulations and the terms of this order.

(G) Pending hearing and decision thereon, the proposed PGA rates filed by National on September 19, 1975, are accepted for filing, suspended for one day, and permitted to become effective thereafter on October 2, 1975, subject to refund.

(H) Within 15 days from the date of this order, National may file revised rates which exclude that portion of small producer rates in excess of the rates prescribed in Opinion 742, such rates to be effective on October 1, 1975, without refund obligation.

(I) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission. Chairman Nassikas, dissenting, filed a separate statement appended hereto.

[SEAL] KENNETH F. PLUMB,  
Secretary.

Small Producer Respondents Docket No.  
RP74-100 (PGA 76-2)

| Small producer                          | Contract No. | Contract date |
|-----------------------------------------|--------------|---------------|
| G. W. & Jean F. Walters.....            | 20445        | June 12, 1974 |
| G. W. & Jean F. Walters.....            | 21704        | Do.           |
| Irvine L. Geer.....                     | 26196        | July 31, 1974 |
| V. G. Gas Co.....                       | 18467        | Aug. 5, 1974  |
| Glenbrook Oil & Gas, Inc.....           | 21978        | Oct. 18, 1974 |
| Congar Pass Resources.....              | 22076        | May 3, 1974   |
| Carroll A. Weaver.....                  | 22092        | June 24, 1974 |
| Howard & Son.....                       | 22657        | Oct. 2, 1974  |
| Anthony F. Carino.....                  | 22688        | Nov. 13, 1974 |
| Amerex, Inc.....                        | 26015        | Nov. 22, 1974 |
| North East Natural Gas Co.,<br>Ltd..... | 26153        | July 9, 1974  |
| Dillon-Roots, Ltd.....                  | 26221        | June 21, 1974 |
| F. E. Petroleum, Inc.....               | 26222        | July 9, 1974  |
| Forest Chemical Co.....                 | 26228        | July 29, 1974 |
| John Reetz Associates, Inc.....         | 28251        | Apr. 9, 1974  |

[FR Doc. 75-28908 Filed 10-24-75; 8:45 am]

[Docket No. RM74-16]

# NATURAL GAS COMPANIES ANNUAL REPORT OF PROVED DOMESTIC GAS RESERVES

## Extension of Time for Certain Respondents To File FPC Form No. 40

OCTOBER 17, 1975.

On August 18, 1975, the Commission issued Order No. 526-A, which made Section 260.13 of our Regulations effective as of that date. Pursuant to that order all natural gas companies, their affiliates, and subsidiaries were required to file FPC Form No. 40 on September 17, 1975, as to the Offshore Federal Domain, and October 2, 1975, for the onshore areas and the State controlled offshore. The Secretary has granted extensions of time to October 17, 1975, to file Form No. 40 to those respondents who have requested an extension.

Upon consideration, notice is hereby given that an extension is granted to

November 17, 1975, to file all of Form 40 to those respondents on the attached list.

Those respondents which were required to file Form No. 40, but which have not filed to date nor requested an extension of time in which to file were deficient in this reporting requirement as of October 2, 1975.

KENNETH F. PLUMB,  
Secretary.

NATURAL GAS COMPANIES ANNUAL REPORT OF PROVED DOMESTIC GAS RESERVES: FPC FORM No. 40

ADA Resources, Inc., and Affiliates.  
Adams, Jr. K. S.  
Alamo Petroleum Company.  
Amerada Hess Corporation.  
American Pacific International, Inc.  
American Petrofina Company of Texas.  
Anadarko Production Company.  
APCO Oil Corporation.  
Apexco, Inc.  
Arnold III, Isaac.  
Arnold, Antoinette.  
Arnold, Isaac, Estate of.  
Arnold, Jr., Isaac.  
Armond, Robert Tilly.  
Ashland Oil, Inc.  
Atlantic Richfield Company.  
Austral Oil Company, Inc.  
Barnhart, Robert Joseph.  
Barnhart, Wilhelmina Anne.  
Basin Petroleum Corporation.  
Bayou Oil Company.  
Bodcaw Company, Randal Lewis.  
Bridger Petroleum Corporation.  
Bridwell Oil Company.  
Cabot Corporation.  
California Company, The.  
Chevron Oil Company.  
Cities Service Oil Company.  
CIG Exploration, Inc.  
Clark Oil Producing Company.  
Clinton Oil Company.  
Coastal States Gas Corporation.  
Coastal States Gas Producing Company.  
Cobertson, Corbin J.  
Colorado Oil & Gas Corp.  
Consolidated Gas Supply Corporation.  
Continental Oil Company.  
Coquina Oil Corporation.  
Cotton Petroleum Corporation.  
Crab Run Gas Company.  
Cullen, Harry H.  
Cullen, Roy H.  
Damon Oil Corporation.  
Dan R. Wager.  
Delta Drilling Company.  
Devon Corporation.  
Diane Oil Company.  
Dixilyn Corporation.  
Dorchester Gas Producing Company.  
Dorfman Production Company.  
Eason Oil Company.  
Exchange Oil & Gas Corporation.  
Exeter Exploration Co.  
Expando Production Company.  
Ferguson Oil Company, Inc.  
Forest Oil Corp.  
G. E. Kadane & Sons Corp.  
Gas Producing Enterprises, Inc.  
Geiselman, Elizabeth Robertson.  
General American Oil Company of Texas.  
H. M. Huber Corporation.  
Hanover Petroleum Corporation.  
Harper Oil Company.  
Hells, William G., Estate of.  
Helmerich & Payne, Inc.  
Henderson, George I., Estate of.  
Highland Resources, Inc.  
HNG Fossil Fuels Company.  
Houston Oil & Minerals Corporation.  
Hunt Petroleum Corporation.  
Hunt Oil Company.



Hunt, H. H. L., Estate of.  
 Hill, A. G.  
 Hunt, Hassie, Trust.  
 Hunt, Lamar.  
 Hunt Industries.  
 Hunt, W. H.  
 Hunt, William Herbert, Trust Estate.  
 Hunt, N. B.  
 Hunt, Caroline, Trust Estate.  
 Hunt, Caroline (Sands) Schoellkopf.  
 Husky Oil Company.  
 Indian Royalty Company.  
 J. N. Huber Corporation.  
 J. S. Abercrombie Mineral Company, Inc.  
 K. S. Adams, Jr.  
 Kerr-McGee Corporation.  
 Keweenaw Oil Company.  
 King Resources Company.  
 Knob Hill Oil & Gas Company, Inc.  
 Leasehold Interests, Inc.  
 Lenoir M. Josey, Inc., et al.  
 Lone Star Producing Company.  
 Long, Cornelia Cullen.  
 Louisiana Land & Exploration Company, The.  
 Marathon Oil Company.  
 Marshall, Margaret Cullen.  
 Marshall, Douglas B.  
 Marshall, Hugh Roy.  
 Marice L. Brown Company, The.  
 McMoran Exploration Company.  
 MESA Petroleum Company.  
 Mims, Joyce A.  
 Mitchell Energy Corporation.  
 Mobil Oil Corporation.  
 Moshbacher, Robert.  
 Occidental Petroleum Corporation.  
 Ocean Production Company.  
 Ocean Drilling & Exploration Company.  
 Ocean Oil & Gas Company.  
 Murphy Oil Corporation.  
 Pacific Lighting Exploration Company.  
 Pauley Petroleum, Inc.  
 Peto Oil Company.  
 Petro-Lewis Corporation.  
 Pioneer Production Corporation.  
 Placid Oil Company.  
 Portanova, Enrico.  
 Portanova, Ugo.  
 Prairie Producing Company.  
 Reserve Oil & Gas Company.  
 Robertson, Alison Suzanne.  
 Robertson, Carol Christine.  
 Robertson, Corbin J.  
 Robertson, Corbin J., Jr.  
 Robertson, Lillie Therese.  
 Robertson, Wilhelmina Cullen.  
 Rodman Corporation, The.  
 Samedan Oil Corporation.  
 Sarkeys, Inc.  
 Scott III, Russell.  
 Scott, Agness Louis.  
 Scott, Joseph Arnold.  
 Scott, Mary Cullen.  
 Scott, Mary Hugh.  
 Shell Oil Company.  
 Shenandoah Oil Corporation.  
 Signal Oil Corporation.  
 Singer-Fleischaker Oil Operating Company.  
 Sklar & Phillips Oil Company.  
 Sohio Petroleum Company.  
 Sonat Exploration Company.  
 South Coast Corp., The.  
 South States Oil & Gas Company.  
 Southern Natural Gas Company.  
 Southwest Petro-Chem (Production), Inc.  
 Stephens Production Company.  
 Suburban Propane.  
 Sun Oil Company.  
 Tesoro Petroleum Corporation.  
 Texas Crude, Inc.  
 Texas Gas Exploration Corporation.  
 Texas Gas Transmission Corporation.  
 Texas Oil & Gas Corporation.  
 Texas Southeastern Gas Company.  
 Texas West Oil & Gas Corp.  
 Transco Exploration Company.  
 Transocean Oil, Inc.  
 W. C. McBride, Inc.

Wessely, Arthur J.  
 Wessely Energy Corp.  
 Westtrans Petroleum, Inc.  
 Wheelless Industries, Inc.  
 Wilshire Oil Company of Texas.  
 Wilson, Robert P.  
 Zoller & Danneberg, Inc.

[FR Doc. 75-28817 Filed 10-24-75; 8:45 am.]

[Docket Nos. CPT1-50, CPT1-54, CPT1-187]

# NATURAL GAS PIPELINE COMPANY OF AMERICA ET AL.

## Postponement of Hearing

OCTOBER 17, 1975.

On October 14, 1975, Phillips Petroleum Company filed a motion to postpone the hearing date fixed by order issued July 18, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the hearing date in the above proceeding is changed from October 21, 1975 to November 18, 1975.

KENNETH F. PLUMB,  
 Secretary.

[FR Doc. 75-28809 Filed 10-24-75; 8:45 am.]

## NORTH PENN GAS CO.

[Docket No. RP73-3, PGA76-1]

## Proposed Changes in FPC Gas Tariff

OCTOBER 17, 1975.

Take notice that North Penn Gas Company (North Penn) on October 10, 1975 tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective November 1, 1975. The proposed rate change will increase jurisdictional revenues based on the twelve-month period ending August 31, 1975, by \$261.7 thousand annually.

North Penn states that the PGA filing was triggered by PGA increases filed by Consolidated Gas Supply Corporation on September 30, 1975, and by Transcontinental Gas Pipe Line Corporation on September 16, 1975, both to become effective November 1, 1975.

North Penn is requesting a waiver of the 45-day notice requirement contained in its PGA clause since it did not receive its suppliers' revised rates in sufficient time to make a timely filing and further asks for a waiver of any other of the Commission's Rules and Regulations in order to permit the proposed rates to go into effect on November 1, 1975.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make pro-

testants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
 Secretary.

[FR Doc. 75-28810 Filed 10-24-75; 8:45 am.]

[Docket No. RP75-102]

## PANHANDLE EASTERN PIPELINE

## Extension of Procedural Dates

OCTOBER 17, 1975.

On September 23, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued June 30, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of staff, testimony, February 3, 1976.  
 Service of intervenor, testimony, February 17, 1976.

Service of company, rebuttal, March 2, 1976.

Hearing, March 23, 1976 (10 a.m. est.).

KENNETH F. PLUMB,  
 Secretary.

[FR Doc. 75-28811 Filed 10-24-75; 8:45 am.]

[Docket No. ER76-168]

## PUGET SOUND POWER & LIGHT CO.

## Change in Supplement

OCTOBER 17, 1975.

Take notice that on October 8, 1975, the Puget Sound Power and Light Company (Puget Sound) tendered to the Federal Power Commission for filing First Revised Sheet No. 2, superseding Original Sheet No. 2, and Original Sheet No. 2a. Puget Sound states that the purpose of this filing is to correct a typographical error in paragraph 3 under the section captioned "RATES" in Supplement No. 2 to Puget Sound's Rate Schedule FPC No. 55, accepted by the F.P.C. for filing on April 8, 1975. The company proposes an additional provision in its rate schedule whereby charges for energy delivered from thermal generation for nonfirm service will include as additional compensation such portion of the investment costs of the production plant used to furnish the thermal generation as the Company determines in advance but not to exceed 50 percent of such investment costs. The company also proposes to change the original filing whereby charges for energy delivered from thermal generation for firm service will include as additional compensation such portion of the investment costs of the production plant used to furnish the thermal generation as the company determines in advance but not to exceed 100 percent of such investment costs.

The company requests, pursuant to Section 35.11 of the Commission's Regulations, that these changes in its supplement be given the same effective date as the filing of the original supplement, which is March 12, 1975.



Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28812 Filed 10-24-75;8:45 am]

### STINGRAY PIPELINE CO.

[Docket No. CP73-27, et al.]

#### Tariff Filing

OCTOBER 17, 1975.

Take notice that on October 14, 1975, Stingray Pipeline Company (Stingray), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP73-27 Fourth Revised Sheet No. 4 to Original Volume No. 1 of its F.P.C. Gas Tariff to become effective on October 1, 1975.

Stingray states that the rate level reflected in Fourth Revised Sheet No. 4 utilizes a 9.6% cost of debt capital (8% x 1.2) for the 75% portion of Stingray's capitalization which consists of debt. The interest charge of 9.6% for the Fourth quarter of 1975 has been established pursuant to the terms of the Revolving Credit and Term Loan Agreement, dated April 1, 1973 which was introduced as Exhibit No. 8 in the record in Docket No. CP73-27, et al.

Any person desiring to be heard or to make any protest with reference to said tariff filing should on or before November 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party to a proceeding or to participate wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28813 Filed 10-24-75;8:45 am]

[Rate Schedule Nos. 88, et al.]

### TEXAS OIL & GAS CORP., ET AL.

#### Rate Change Filings

OCTOBER 16, 1975.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increase rates to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974. Pursuant to Opinion No. 699-H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before November 3, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

#### APPENDIX

| Filing date       | Producer                                                               | Rate schedule No. | Buyer                      | Area             |
|-------------------|------------------------------------------------------------------------|-------------------|----------------------------|------------------|
| Sept. 25, 1975... | Texas Oil & Gas Corp., Fidelity Union Tower Bldg., Dallas, Tex. 75201. | 88                | Arkansas Louisiana Gas Co. | Other Southwest  |
| Sept. 26, 1975... | Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.             | 356               | Tennessee Gas Pipeline Co. | Texas Gulf Coast |
| Sept. 29, 1975... | Pennzoil Producing Co., 900 Southwest Tower, Houston, Tex. 77002.      | 191               | Ashland Oil, Inc.          | Other Southwest  |
| Do.....           | do.....                                                                | 192               | do.....                    | Do.              |
| Do.....           | do.....                                                                | 193               | do.....                    | Do.              |
| Do.....           | do.....                                                                | 194               | do.....                    | Do.              |
| Do.....           | Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.             | 124               | Texas Gas Pipeline Co.     | Texas Gulf Coast |
| Sept. 30, 1975... | do.....                                                                | 125               | do.....                    | Do.              |

[FR Doc. 75-28818 Filed 10-24-75;8:45 am]

[Docket No. E-9351]

### UNITED STATES DEPARTMENT OF THE INTERIOR, SOUTHEASTERN POWER ADMINISTRATION

#### Request for Approval of Temporary Rates and Charges

OCTOBER 17, 1975.

Notice is hereby given that on September 30, 1975, The Secretary of the Interior upon behalf of Southeastern Power Administration (SEPA) pursuant to Section 5 of the Flood Control Act of 1944 (50 STAT. 887, 890), filed with the Commission a request for confirmation and approval of Temporary Wholesale Power Rate Schedule WP-JB-C-1. This Temporary Rate Schedule is applicable to the sale of power produced at West Point, Jones Bluff and Carter's projects for an interim period prior to the execution of contracts covering the long-term sale of power generated at the three projects. Confirmation and approval of this rate is requested for an interim period ending June 20, 1976, or the effective dates of contracts covering the long-term sale of this power, whichever occurs first.

The monthly rate for capacity and energy sold under rate schedule WP-JB-C-1 shall be:

#### DEMAND CHARGE

\$0.90 per kilowatt per calendar month for capacity. The number of kilowatts for any month to which this charge shall

apply shall be the average of the kilowatts declared available on a daily basis for scheduling by the customer. In the event capacity made available by the Government is reduced or interrupted for any reason for 12 hours or more, the declarations for that day shall be reduced by the amount that was unavailable to the customer for 12 hours or more.

#### ENERGY CHARGE

3.25 miles per kilowatt hour for all energy which can be generated from natural stream-flow water released through the turbines at the projects with the machine capability available and useable, including test and minimum release energy.

Submitted along with the requests were copies of Contract No. 14-05-0001-546, as amended, between the Government and Georgia Power Company covering the sale of the power output of the first two units at Carters Project for an interim period.

Any person desiring to make comments or suggestions upon this application may write the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All such comments or suggestions should be filed in writing on or before November 7, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28815 Filed 10-24-75;8:45 am]



[Docket No. RP76-15]

**ALGONQUIN GAS TRANSMISSION CO.  
Filing of Substitute Tariff Sheet**

OCTOBER 20, 1975.

Take notice that on October 3, 1975, Algonquin Gas Transmission Company (Algonquin Gas) tendered for filing Substitute Ninth Revised Sheet No. 10. Algonquin Gas states the reason for the filing is to include in such sheet the correction to the base tariff rates as reflected in Algonquin Gas' (Corrected) Substitute Eighth Revised Sheet No. 10 and the change in its cost of purchased gas as reflected in Texas Eastern's Fourteenth Revised Sheet No. 14-D, filed on September 26, 1975.

Algonquin Gas requests that Substitute Ninth Revised Sheet No. 10 replace Ninth Revised Sheet No. 10, and in furtherance thereof, requests any waivers of the Commission's Regulations deemed necessary to accomplish this.

Algonquin Gas states a copy of this filing is being served on all customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[PR Doc. 75-28300 Filed 10-24-75; 8:45 am]

**BOSTON EDISON CO.**

[Docket Nos. ER76-96, etc.]

**ORDER ACCEPTING FOR FILING PROPOSED RATE SCHEDULE, INSTITUTING 206 INVESTIGATION, ESTABLISHING PROCEDURES, AND CONSOLIDATING PROCEEDINGS**

OCTOBER 20, 1975.

On September 2, 1975, Boston Edison Company (Edison) tendered for filing as an initial rate schedule<sup>1</sup> a Unit Power Agreement with New England Power Company (NEPCO). Under the filed rate schedule Edison will make available to NEPCO on a unit contract basis 6.82% of the capacity and associated energy from Edison's Mystic Unit No. 7 (Unit) for the period November 1, 1975 through October 31, 1976.

Public notice of the filing was issued on September 10, 1975, with protests or petitions to intervene due on or before

<sup>1</sup> Designated: Boston Edison Company Rate Schedule PPC No. 109.

September 22, 1975. No timely responses were received. Edison has requested that the rate schedule be made effective as of October 2, 1975.

Edison states that the proposed rates are designed to reimburse Edison for 6.82% of the fixed and operating costs of the Unit and certain associated transmission facilities. Capacity charges are determined by a cost-of-service formula designed to recover all non-fuel costs associated with the Unit and certain transmission facilities linking the Unit with Edison's North Cambridge Substation No. 509. Energy charges are based on Edison's fuel expense for the Unit.

Delivery of the Unit entitlement is to be made at the 345 KV bus of Substation No. 509, with deliveries beyond that point to be in accordance with the New England Power Pool (NEPOOL) Agreement. We note that Pool Transmission Facilities (PTF) cost rules are currently under investigation in New England Power Pool Agreement, Docket No. E-7690 (PTF Cost Rules). Accordingly, that part of NEPCO's transmission charges associated with NEPOOL PTF costs will be made subject to the outcome of the proceedings in Docket No. E-7690 (PTF Cost Rules).

Our review indicates that the proposed rates, charges, terms, and conditions of service of the proposed rate schedule have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall accept the proposed rate schedule for filing to become effective October 2, 1975, as requested, and shall institute an investigation into the lawfulness of the proposed rate schedule pursuant to the Commission's authority under Section 206 of the Federal Power Act.

We note that the rates and charges contained within the instant rate schedule are the subject of an existing investigation initiated by our Order of July 31, 1975, in Docket Nos. E-9364 and E-9366. Therefore, it is appropriate that the investigation herein ordered be consolidated with Docket Nos. E-9364 and E-9366 for purposes of hearing and decision.

**The Commission finds.**—(1) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act, that the Commission institute a Section 206 investigation and hearing concerning the lawfulness of the initial rate schedule tendered by Edison in Docket No. ER76-96 and that such rate schedule be accepted for filing.

(2) Good cause exists to consolidate the investigation herein ordered with the proceedings in Docket Nos. E-9364 and E-9366.

(3) Those transmission charges associated with NEPOOL PTF costs should be subject to the outcome of the proceedings in Docket No. E-7690 (PTF Cost Rules).

**The Commission orders.**—(A) Edison's initial rate schedule tendered on September 2, 1975, is hereby accepted for filing to become effective October 2, 1975.

(B) Pursuant to the authority of the Federal Power Act, particularly Section

206 thereof, and the Commission's Rules and Regulations, an investigation concerning the lawfulness and reasonableness of the subject initial rate schedule is hereby initiated.

(C) The proceedings instituted herein shall be consolidated for purposes of investigation, hearing and decision with those established by order issued July 31, 1975, in Docket Nos. E-9364 and E-9366, with the procedural schedule as established in that order to govern.

(D) Those transmission charges paid by NEPCO associated with NEPOOL PTF costs shall be made subject to the outcome of the proceedings now pending in Docket No. E-7690 (PTF Cost Rules).

(E) The Commission Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[PR Doc. 75-28370 Filed 10-24-75; 8:45 am]

[Project No. 2757]

**COLORADO RIVER WATER  
CONSERVATION DISTRICT**
**Notice of Application for Preliminary Permit**

OCTOBER 21, 1975.

Public notice is hereby given that application for preliminary permit was filed on August 4, 1975, under the Federal Power Act (16 U.S.C. § 791a-825r) by Colorado River Water Conservation District (Correspondence to: Mr. Roland C. Fischer, Secretary-Engineer, Colorado River Water Conservation District, P.O. Box 1120, Glenwood Springs, Colorado 81601; Mr. Kenneth Balcomb, Delaney & Balcomb, P.O. Drawer 790, Glenwood Springs, Colorado 81601; and Mr. Robert L. McCarty, McCarty and Noone, 1225 Connecticut Avenue N.W., Washington, D.C. 20036) for proposed Project No. 2757, to be known as the Juniper-Cross Mountain Project, located in Moffat County, Colorado, on the Yampa River.

According to the application, the proposed Juniper-Cross Mountain Project would involve two dams and reservoirs on the main channel of the Yampa River in Moffat County, Colorado.

The Juniper Development of the project would consist of: (1) a 210-foot-high concrete arch dam located in the east half of Section 18, T. 6 N., R. 94 W., in the vicinity of Maybell, Colorado, on the Yampa River about 25 miles southwest of Craig, Colorado; (2) a storage reservoir with a maximum water level at elevation 6,125 feet and a minimum tail-water level at elevation 5,950 feet; and (3) a diversion tunnel leading to a powerhouse containing three 15,000 kW generating units.

The Cross Mountain Development of the project would consist of: (1) a 260-foot-high concrete arch dam located downstream from Juniper Dam and about 50 miles west of Craig, Colorado, near the downstream end of Cross Mountain Canyon on the Yampa River;



(2) a re-regulating reservoir having a maximum water level at elevation 5,875 feet and a minimum tailwater level at elevation 5,651 feet; and (3) a diversion tunnel leading to a powerhouse containing three 11,000 kW generating units.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for license.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 C.F.R. 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein, and if the applicant or initial pleader requests that the shortened procedure of Section 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28881 Filed 10-24-75; 8:45 am]

[Docket Nos. RP74-81, RP74-82, RP75-105, and RP75-106]

#### COLUMBIA GULF TRANSMISSION CORP. AND COLUMBIA GAS TRANSMISSION CORP.

##### Notice of Conference

OCTOBER 21, 1975.

Take notice that on Thursday, November 6, 1975, Commission Staff is con-

vening an informal conference for the purpose of discussing the conjunctive billing issue in Docket Nos. RP74-81, RP74-82 and the issue in Docket Nos. RP75-105 and RP75-106 with a view toward settling these proceedings. This conference will be held in Room 5200 of the Federal Power Commission offices, 825 North Capitol Street, NE., Washington, D.C. 20426, at 10:00 a.m.

All parties in attendance will be expected to come fully prepared to discuss all issues involved in this proceeding, both procedural and substantive, and to make commitments with respect to such issues and any offers of settlement or stipulation discussed at the conference.

Customers and other interested parties will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in this proceeding. A petition to intervene filed pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure is required for that purpose.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28882 Filed 10-24-75; 8:45 am]

[Docket No. RP76-19]

#### EL PASO NATURAL GAS CO.

##### Notice of Tariff Filing

OCTOBER 22, 1975.

Take notice that on September 29, 1975, El Paso Natural Gas Company (El Paso) tendered for filing, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, certain tariff sheets proposing changes to its FPC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A.<sup>1</sup>

El Paso states that on June 10, 1975, it tendered for filing and acceptance certain tariff sheets and a concurrent application at Docket No. CP75-360 for a certificate of public convenience and necessity. The purpose of such tariff filing was modification of El Paso's FPC gas Tariff relating to storage operations, extension of the term of currently effective special Rate Schedule X-35 as a part of El Paso's Third Revised Volume No. 2 tariff. Said filing was the culmination of additional special operating arrangements made between El Paso, Pacific Gas and Electric Company (PG&E) and Southern California Gas Company (SoCal) for the protection of Priority 1 and 2 requirements of El Paso's east-of-

California customers during the 1975-76 and 1976-77 heating seasons.<sup>2</sup>

As indicated in said filing of June 19, 1975, El Paso had anticipated delivering approximately 9,000,000 Mcf through October, 1975, of the total 17,000,000 Mcf of additional advance sale gas provided for under the said arrangement with PG&E. El Paso has now been advised by PG&E that, due to current operational conditions, PG&E would be able to receive more than the said anticipated 9,000,000 Mcf of additional advance sale gas through October, 1975. El Paso states that, in order to utilize the additional special operating arrangements to the maximum, it has delivered as of September 26, 1975, approximately 11,300,000 Mcf of additional advance sale gas to PG&E. Further, El Paso now anticipates delivering to PG&E through October 31, 1975, essentially all of the 17,000,000 Mcf of additional advance sale gas permitted under the special operating arrangements. El Paso further states that such additional 1975 deliveries, above the originally forecasted 9,000,000 Mcf reflected in its filing of June 10, 1975, necessitate revision of the surcharge rate applicable to the additional special operating arrangements from 8.37¢ per Mcf to 10.09¢ per Mcf. The filing contains schedules reflecting the derivation of the revised surcharge rate and a revised estimate of the revenues to be derived by El Paso by application of such revised surcharge rate.

El Paso as requested that the tendered tariff sheets be accepted for filing and permitted to become effective on November 1, 1975. El Paso also tendered alternative substitute tariff sheets which have the same purpose as those described above except that such alternative sheets assume that the authorizations sought by El Paso at Docket No. CP76-87, relating to the operation of its Rhodes Reservoir storage facility on a permanent basis, have not issued by November 1, 1975. Should the authorizations issue at Docket No. CP76-87 on or before November 1, 1975, El Paso further states that the tendered alternative substitute tariff sheets shall be deemed withdrawn. El Paso also requests waiver of the Commission's Regulations as may be necessary to permit effectiveness of the tendered sheets on November 1, 1975.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before October 28, 1975, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations

<sup>1</sup> Such tendered sheets are: Fourth Revised Sheet No. 63-C.6 to Original Volume No. 1; Fourth Revised Sheet No. 1-M.6 to Third Revised Volume No. 2 and Fourth Revised Sheet No. 7-MM.6 to Original Volume No. 2A and are designed to supersede the counterpart tariff sheets proposed to become effective on November 1, 1975, which were filed in conjunction with the certificate application filed by El Paso on September 17, 1975, at Docket No. CP76-87.

<sup>2</sup> By order issued July 9, 1975, at Docket Nos. CP73-334, CP74-289 and CP75-360, the Commission granted El Paso temporary authorization for the additional special operating arrangements made with PG&E and SoCal and accepted for filing effective July 9, 1975, certain tariff sheets providing for changes in the storage service provisions of El Paso's FPC Gas Tariff necessary to implement said additional special operating arrangements.

<sup>3</sup> See Note 1, *supra*.



Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28920 Filed 10-24-75; 8:45 am]

[Docket No. ER75-165]

**IOWA POWER AND LIGHT CO.**  
**Notice of Change in Rate Schedule**

OCTOBER 20, 1975.

Take notice that Iowa Power and Light Company (Iowa Power) on October 6, 1975, tendered for filing the Second Amendment to Interconnection Agreement between Iowa Power and Light Company and Omaha Public Power District dated June 30, 1975 as proposed Supplement No. 8 to Iowa Power Rate Schedule FPC No. 5.

The Second Amendment provides for the establishment of points of delivery between the two companies and further specifies the nature of facilities to be made available for the use of both parties for the interchange of electric power and energy under the terms of the basic Interconnection Agreement and Service Schedules attached thereto.

Iowa Power states that the purpose of these additional facilities and delivery points is to further increase the interchange and displacement capabilities between the systems of both companies and facilitate coordinated development of adequate transmission capacity for service to customers of the companies at minimum cost.

Iowa Power request the commission to waive the prior notice requirement of

Iowa Power requests the Commission to waive the prior notice requirements of Section 35.3(a) and accept this rate schedule for filing with the retroactive effective date of June 30, 1975, pursuant to Section 35.11 of the Commission's regulations. Iowa Power states that copies of the filing have been served upon Omaha Public Power District and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are

on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28871 Filed 10-24-75; 8:45 am]

[Docket No. RI75-136]

**JOHN B. HAWLEY, JR., TRUST NO. 1**  
**Order Granting Petition for Special Relief and Permitting Intervention**

OCTOBER 20, 1975.

On April 28, 1975, Mr. Wheeler Smith, Trustee of the John B. Hawley, Jr. Trust No. 1 (Hawley), filed a petition for special relief pursuant to Section 2.76<sup>1</sup> of the Commission's General Policy and Interpretations for the sale of natural gas to Cities Service Gas Company (Cities), made pursuant to a small producer certificate issued in Docket No. C871-22, from the Longbotham Gas Unit No. 1 Well located in the Hugoton Field, Haskell County, Kansas (Hugoton-Anadarko Area).

Hawley owns a 49.92489% working interest in the Longbotham Gas Unit No. 1. Hawley is currently collecting a rate of 13.5 cents per Mcf, before Btu adjustment, at 14.65 psia for the sale of natural gas to Cities pursuant to a contract dated November 1, 1953. In order to restore production and preclude premature abandonment, Hawley states that it was necessary to conduct "fishing operations" to recover 2,260 feet of 1½ inch tubing that had fallen to the bottom of the well during repair work on equipment in the well. Cost data filed July 7, 1975 shows the actual 100% working interest cost of restoring production was \$22,156.

In consideration of Hawley's remedial measures to restore production, Cities agreed to an amendment to their gas sales contract on April 7, 1975. The amendment provides for an increase in rate of 34.0 cents per Mcf.<sup>2</sup>

Notice of Hawley's petition for special relief was issued on May 12, 1975 and appeared in the Federal Register on May 19, 1975 at 40 FR 21778. A timely petition to intervene was filed by Cities on May 22, 1975, in support of Hawley's petition.

The Commission's Staff (Staff) has conducted a detailed analysis of the data submitted by Hawley. Based thereon, Staff has estimated that 513,075 Mcf of recoverable reserves remain to be produced over a period of 13 years, and Staff has determined that the proposed rate is justified. After a careful review of the costs incurred and the reserves to be recovered, we conclude that it is in the public interest to grant Hawley's petition.

*The Commission finds.*—(1) The petition for special relief filed by Hawley

<sup>1</sup> 18 CFR § 2.76.

<sup>2</sup> The rate sought by Hawley and herein approved reflects an allowance for the increased tax liability resulting from repeal of the percentage depletion allowance by the Tax Reduction Act of 1975.

meets the criteria set forth in Section 2.76 of the Commission's General Policy and Interpretations and should be granted.

(2) Good cause exists to allow Cities to intervene in this proceeding.

*The Commission orders.*—(A) The petition for special relief of Hawley is hereby granted.

(B) Hawley is authorized to collect 34.0 cents per Mcf at 14.65 psia, inclusive of Federal Income Taxes and subject to downward Btu adjustment for gas having a Btu content below 900 Btu, for all gas produced from the Longbotham Gas Unit No. 1 effective on the date of this order.

(C) Cities is permitted to intervene in this proceeding for special relief subject to the Rules and Regulations of the Commission; *Provided, however*, that the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition for leave to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding, and that the intervenor agrees to accept the record as it now stands.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28872 Filed 10-24-75; 8:45 am]

[Docket No. RP75-3]

**INLAND GAS COMPANY, INC.**

**Order Waiving Regulations, Accepting for Filing and Suspending Tariff Sheets, Setting Formal Hearing, Establishing Procedures, and Granting Interventions**

OCTOBER 20, 1975.

On July 31, 1975, the Inland Gas Company, Inc. (Inland) tendered for filing Original Sheets Nos. 1 through 7 to its FPC Gas Tariff, Original Volume No. 1, constituting its proposed curtailment procedures. The proposed effective date of all sheets is January 1, 1976.

Inland states that it mailed a copy of its filing to all of its affected customers and requests waiver of the Commission's Regulations to permit its filing to become effective as proposed. Additionally, Inland requests the Commission to set a prehearing conference among all parties to discuss its proposed curtailment plan.

The tendered sheets provide for a method of curtailment, penalty charges, disposition of penalty charges, and a provision for relief in emergency situations. Although the proposed plan does not strictly follow the Commission's Order No. 467-B priorities, Inland states that the plan is nevertheless consistent with the Commission's statement of curtailment policy. Inland alleges that the proposed curtailment procedures would fully protect its rural domestic and commercial customers by imposing proportionate



curtailment on its larger industrial customers with entitlements in excess of 300 Mcf per day. Inland states that a curtailment plan in strict accordance with the priorities of service set forth in Section 2.78 of the Commission's General Policy and Interpretations (18 CFR 2.78) would severely impact one of its major customers and might cause a number of its smaller industrial customers to cease operations. Inland states that its proposed curtailment plan is not in strict accordance with the end-use priorities prescribed in Section 2.78 but that its proposed plan would mitigate or obviate the need to request extraordinary relief from its supplier.

Petitions to intervene were timely filed by Allied Chemical Corporation and Armco Steel Corporation. Neither petitioner expressed any opposition to the proposed plan, but only a desire to protect their interest. Each supports Inland's request for a prehearing conference.

**The Commission finds.**—(1) The tendered tariff sheets have not been shown to be just and reasonable and thus may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful under the Natural Gas Act.

(2) Good cause exists to waive the requirements of the Commission's Regulations to permit Inland's tendered tariff sheets to be accepted for filing.

(3) Good cause exists to set formal hearing to determine the lawfulness of Inland's filing, to establish the procedures for that hearing, and to suspend and defer the effectiveness of the tariff sheets, all as hereinafter ordered.

(4) The participation of the petitioners in this proceeding may be in the public interest.

**The Commission orders.**—(A) Pursuant to Section 154.51 of the Commission's Regulations, the notice requirements of the Regulations, particularly Section 154.22 thereof, are hereby waived and Inland's tendered tariff sheets are hereby accepted for filing.

(B) Pursuant to authority under the Natural Gas Act, particularly Sections 4, 5, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Natural Gas Act, a public hearing shall be held, commencing with a prehearing conference, on November 11, 1975, at 10:00 a.m. in a hearing room at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the issues involved in the instant filing.

(C) Pending hearing and decision, the tariff sheets tendered by Inland on July 31, 1975, are hereby suspended and the use thereof deferred until January 2, 1976, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) On or before December 1, 1975, Inland and other parties supporting the instant filing shall file with the Commission their direct case in the form of testimony and exhibits in support of the filing and serve copies thereof upon all parties including the Presiding Admin-

istrative Law Judge and Commission Staff. Cross-examination of the testimony will convene on December 16, 1975, at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge, (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at and control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(F) The above-named petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however*, that the participation of such intervenors shall be limited to matters affecting asserted rights and interest as specifically set forth in said petition for leave to intervene; and, *Provided, further*, that the admission of said intervenors shall not be construed as recognition by the Commission that they or either of them might be aggrieved by any order or orders of the Commission entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28878 Filed 10-24-75; 8:45 am]

[Docket No. ER75-170]

#### KENTUCKY UTILITIES CO. Notice of New Delivery Point

OCTOBER 21, 1975.

Take notice that on October 9, 1975, the Kentucky Utilities Company (Company) tendered for filing a change in its Rate Schedule FPC No. 78 to include an additional delivery point as requested by Old Dominion Power Company (Customer). Service is expected to begin on or about November 15, 1975, which is requested as the effective date.

Company states that no reasonable billing estimates can be made since the load served will be that transferred from other delivery points from time to time. Company further states that copies of the tendered filing have been sent to Customer and the Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 3, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this

filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28883 Filed 10-24-75; 8:45 am]

[Docket No. E-9425]

#### KENTUCKY UTILITIES CO. Notice of Filing of Revised Fuel Adjustment Clause

OCTOBER 21, 1975.

Take notice that on October 9, 1975, Kentucky Utilities Company (KU) tendered for filing a revised fuel adjustment clause to comply with Section 35.14 as amended by Order No. 517, for inclusion in the contract for service at a new delivery point with the City of Nicholasville, Kentucky, such contract being dated April 22, 1975. The instant filing is to modify the fuel clause contained in said contract tendered for filing May 1, 1975, which the Commission found deficient and subsequently rejected by Order issued July 16, 1975.

KU requests: (a) waiver of prior notice, under Section 35.11 of the Commission Regulation as stated in the May 1, 1975 filing, and grant of an effective date of October 24, 1974, (b) acceptance of the initial contract as filed for service rendered from October 24, 1974 through either December 31, 1974, or the date of acceptance of the current filing (whichever the Commission deems appropriate) and (c) acceptance of the fuel clause filed herewith, which is in compliance with Section 35.14 amended by Order No. 517, as an amendment to the initial contract to become effective either on and after January 1, 1975 or the date of acceptance of the filing (whichever the Commission deems appropriate) and, thereby, replace the originally filed fuel clause.

WPS-73, the basic rate in the April 23, 1975 contract, was designed based on the test year of 12 months ended July 31, 1972. The fuel clause filed herewith is indexed to the same 12 months period. The fuel costs "F" and the KMH sales "S" (as defined in FPC Order 517) for the base period are \$23,539,051 and 5,977,059,638 KWH respectively.

KU requests waiver of the requirement to supply estimated billing for a subsequent period. The customer is shifting loads to this new delivery and, therefore, no meaningful estimates can be made, KU states.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before October 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make pro-



testants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28919 Filed 10-24-75; 8:45 am]

[Docket No. CP76-121]

# McCULLOCH INTERSTATE GAS CORP.

## Notice of Petition for Declaratory Order

OCTOBER 20, 1975.

Take notice that on October 2, 1975, McCulloch Interstate Gas Corporation (Petitioner), 10880 Wilshire Boulevard, Suite 1600, Los Angeles, California 90024, filed in Docket No. CP76-121 a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order of the Commission directed to the question whether Petitioner's sale of natural gas to McCulloch Gas Transmission Company (MGTC) in the State of Wyoming is subject to the Commission's jurisdiction, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that it sells gas, which is purchased from various producers in the Powder River Basin of Wyoming, to Colorado Interstate Gas Company (CIG) for interstate consumption and to MGTC for intrastate consumption. It is stated that CIG is an interstate pipeline company certificated by the Commission and that MGTC is an intrastate pipeline carrier certificated by the Wyoming Public Service Commission (WPSC). By order issued June 19, 1970 (43 FPC 909), in Docket No. CP70-231 Petitioner received authorization to construct and operate its pipeline in the Powder River Basin.<sup>1</sup> In its application in Docket No. CP70-231 Petitioner had indicated that it would deliver approximately 60,000-73,000 Mcf of gas per day to CIG and would make a smaller, non-jurisdictional intrastate sale of gas to MGTC. Petitioner states that by contracts dated February 1, 1970, with MGTC and January 28, 1970, as amended, with CIG Petitioner reserved certain of its gas for intrastate sales. Petitioner further states that the original contract between Petitioner and CIG estimated Petitioner's intrastate sales at about 8,000 Mcf of gas per day, although this provision was later eliminated by amendment.

Petitioner states that now, for various reasons beyond its control, its gas reserves have rapidly declined. Petitioner claims that because MGTC is increasingly dependent upon Petitioner for gas supplies, Petitioner's sales to MGTC have remained relatively constant while Petitioner's sales to the interstate market

have decreased. Petitioner states that its current total gas deliveries are about 16,000 Mcf per day of which about 8,000 Mcf day are delivered to MGTC.

A proposed intrastate rate increase filed by MGTC with the WPSC culminated in an order dated August 5, 1975, in which, it is claimed, the WPSC asserted jurisdiction over Petitioner's sale of gas to MGTC. Petitioner states that, additionally, the WPSC required Petitioner and MGTC to study possible emergency restructuring of their operations into one intrastate utility and the sale of the utility systems to an operating utility with a broader base to make continued operations feasible.

Based upon current circumstances which did not exist at the time of Petitioner's original certification, Petitioner asserts that the Commission has jurisdiction over Petitioner's sale of gas to MGTC in Wyoming. Petitioner contends that the WPSC's assertion of jurisdiction over Petitioner's sale of gas to MGTC, and facilities "used and useful" therefor, is duplicative of the Commission's jurisdiction and could materially affect the financial position of Petitioner. Petitioner states that although in the past it has taken the position that its gas sale to MGTC was not subject to the Commission's jurisdiction, Petitioner has never taken the position that the WPSC had jurisdiction over the sale.

Petitioner requests a hearing on its petition and a declaratory order holding that the Commission has jurisdiction over Petitioner's sale of gas to MGTC.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28873 Filed 10-24-75; 8:45 am]

[Docket Nos. E-9499, E-9502, ER76-20]

# MINNESOTA POWER AND LIGHT CO. AND SUPERIOR WATER, LIGHT AND POWER CO.

## Notice of Extension of Procedural Dates

OCTOBER 20, 1975.

On October 14, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued July 18, 1975, in the above designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of staff testimony, December 2, 1975.

Service of intervenor testimony, December 16, 1975.

Service of company rebuttal, January 6, 1976.

Hearing, January 20, 1976 (10 a.m. e.s.t.).

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28874 Filed 10-24-75; 8:45 am]

[Docket No. E-9536]

# MONTANA POWER CO.

## Notice of Extension of Time

OCTOBER 20, 1975.

On October 10, 1975, The Montana Power Company filed a motion to extend the time to show cause as to why it should not file an application pursuant to section 203 of the Federal Power Act for approval of the acquisition by the company of certain electric facilities from the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, pursuant to order issued September 26, 1975, in the above-indicated proceeding.

Notice is hereby given that the time within which to show cause in the above proceeding is extended to and including November 14, 1975.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28875 Filed 10-24-75; 8:45 am]

[Docket No. RP76-4]

# NATIONAL FUEL GAS SUPPLY CORP.

## Order Accepting for Filing and Suspending Proposed Rate Increase, Allowing Interventions, and Setting Procedures

OCTOBER 21, 1975.

On August 15, 1975, National Fuel Gas Supply Corporation (Company), tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1.<sup>1</sup> The proposed changes would have increased revenues from jurisdictional sales and services by \$12,484,000 based on the 12 month period ending December 31, 1975, as adjusted. Notice of the filing was issued on August 25, 1975 with protests and petitions to intervene due on or before September 9, 1975. The proposed effective date is October 1, 1975.

By letter dated September 12, 1975 the Secretary informed the Company that its filing was deficient in that it was not based upon a proper test period as defined by Section 154.63(e)(2)(ii) of the Commission's Rules and Regulations. On September 22, 1975 the Company filed material which cured the deficiency. Notice of the curing filing was issued October 2, 1975. Under the revised filing the Company's rate increase was reduced to \$11,905,000 based on the twelve month test period ending April 30, 1975, as adjusted. The Company requested waiver of Commission Regulations to permit the revised filing to become effective October 1, 1975. We shall assign a proposed

<sup>1</sup> Sixth Revised Sheet No. 4, Second Revised Sheet No. 35, Second Revised Sheet No. 36.

<sup>1</sup> By that order Petitioner was also authorized to acquire MGTC's interest in a certain pipeline in Campbell County, Wyoming.



effective date of October 22, 1975 to the filing (30 days after the date of completion of the filing) and shall suspend such rates until March 1, 1976, a date five months beyond the original proposed effective date.

The Company has requested waiver of Section 154.63(e)(2)(ii) in order that it might include in this filing costs applicable to facilities to be acquired from The Sylvania Corporation pursuant to the proposed merger of Sylvania and the Company which is the subject of Docket No. CP75-344. The Company states that if a certificate of public convenience and necessity in Docket No. CP75-344 is not issued prior to the expiration of the suspension period in this proceeding, it will file revised tariff sheets reflecting the elimination of costs applicable to Sylvania. Upon review of this request, the Commission believes that waiver of its Regulations is appropriate in this case.

Review of the filing reveals that the Company has requested an overall rate of return of 10.20% including a return of 13.50% on common equity. Further, the Company proposes to raise its overall depreciation rate from 3.24% to 4.05%. The present gas shortage in this country, to which this Commission has often called attention, is a problem which is shared by most if not all major interstate transmission pipelines in varying degrees of magnitude. The effect upon the risk of capital invested in gas pipeline operations resulting from inadequate and declining gas supplies as well as the uncertainties and contingencies inherent in possible supplemental sources of supply are of direct and primary concern to us. It also seems clear that the gas shortage may result in situations where the useful or economic life of gas pipeline facilities may be substantially less than their physical life. Accordingly, we request that the evidence in this proceeding, including that to be filed by our Staff, give full and careful consideration to these factors in the development of recommendations on the issues of rate of return and depreciation so as to enable this Commission to formulate sound regulatory policies in these areas. Other issues requiring development at hearing include adjustments to operating revenues and questions of rate design. The foregoing is without prejudice to the right of the parties, including Commission Staff, to file such further evidence as they deem relevant and material.

Notices and petitions to intervene in these proceedings have been filed by the Public Service Commission of the State of New York and the Peoples Natural Gas Company. Good cause exists to allow participation by these parties.

The Company's proposed rate increase has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly we shall suspend the Company's rate increase to become effective March 1, 1976.

**The Commission finds.**—(1) Good cause exists to accept for filing as of Sep-

tember 22, 1975 the Company's revised tariff sheets, and suspend them until March 1, 1976.

(2) Good cause exists to waive Section 154.63(e)(2)(ii) to allow the Company to include in the proposed rates costs associated with the Sylvania Corporation subject to the condition that should the Commission not issue by March 1, 1976 a certificate of public convenience and necessity in Docket No. CP75-344 approving the merger of Sylvania and the Company, the Company shall file substitute tariff sheets which reflect the exclusion of costs associated with Sylvania.

(3) Good cause exists to allow participation by the above-named petitioners to intervene.

**The Commission orders.**—(A) The Company's tendered tariff sheets are hereby accepted for filing and suspended until March 1, 1976, subject to the terms and conditions of this order.

(B) Waiver of Section 154.63 of the Commission's Rules and Regulations is hereby granted to allow the Company to include in the proposed rates costs associated with the Sylvania Corporation subject to the condition that should the Commission not issue by March 1, 1976 a certificate of public convenience and necessity in Docket No. CP75-344 approving the merger of Sylvania and the Company, the Company shall file substitute tariff sheets which reflect the exclusion of costs associated with Sylvania.

(C) Pursuant to the authority of the Natural Gas Act, particularly Sections 4 and 5 thereof, the Commission's Rules of Practice and Procedure, and the Regulations Under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on February 24, 1976, at 10 a.m., EST, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classification, and services contained in the Company's FPC Gas Tariff, as proposed to be amended herein.

(D) On or before January 16, 1975, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before January 30, 1976. Any rebuttal evidence by the Company shall be served on or before February 13, 1976.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall preserve relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(F) The above mentioned petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however*, that the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions

to intervene; and *Provided, further*, that the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(G) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(H) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28884 Filed 10-24-75; 8:45 am]

[Project No. 516, Docket No. E-7791]

#### SOUTH CAROLINA ELECTRIC AND GAS CO.

#### Use of Project Lands and Waters, Change in Land Rights, Settlement, Recreation, Need for EIS

OCTOBER 20, 1975.

The settlement agreement before us herein had its origin in our Order Approving Application to Grant Easements issued September 10, 1973.<sup>1</sup> That order also provided for a hearing to consider, among other things, certain applications for permission to utilize project lands and waters. The basis for ordering the hearing was stated as follows:

We are concerned with the practice of allowing increased use of project lands and waters on a piecemeal basis rather than being related to a comprehensive consideration of the capacity of the proposed project lands and waters to serve known and foreseeable proposed public uses which might be imposed upon them.<sup>2</sup>

Among those other applications which were included within the scope of the hearing was an application for Commission approval of the leasing of certain project lands, known as Billy Dreher Island, and easements located within project boundaries to the South Carolina Department of Parks, Recreation and Tourism (PRT) for development as a state park. Billy Dreher Island State Park is the subject of the instant settlement agreement.

On December 18, 1973, Licensee moved to sever and expedite the Commission's consideration of Billy Dreher Island from the hearing procedure. The motion was denied for lack of basic data upon which an informed judgment could be made. The hearings subsequently commenced on February 24, 1975, and continued for eight days.

On March 10, 1975, PRT filed a motion to sever and expedite consideration of the application for development of the State Park on Billy Dreher Island. The

<sup>1</sup> 50 F.P.C. 700 (1973), affirmed, sub nom. The Committee to Save Lake Murray v. FPC, 515 F.2d 379 (D.C. Cir. 1975).

<sup>2</sup> Id. at 703.



need for urgency was based upon the possible withdrawal of supporting federal funds which would cause the collapse of the proposal. At approximately the same time, Licensee requested to withdraw without prejudice an application for easements for a proposed residential subdivision on the shores of the reservoir (Lake Murray) about one mile from Billy Dreher Island. Both motions were granted by our order issued April 9, 1975. We noted therein that the pleadings before us pointed out that there had been comprehensive consideration of the cumulative effects of all identifiable uses of project lands and waters and that the effects of Billy Dreher Island State Park would not interrelate significantly with those from the other developments. Thus, it appeared reasonable to permit consideration of Billy Dreher Island on an expedited basis.

On April 11, 1975, at a conference among the parties following the direct case, the presiding Administrative Law Judge requested all parties to submit briefs on the issue of the necessity for an environmental impact statement (EIS) covering all the applications for easements and related matters currently before the Commission in the instant proceeding. These were submitted by all parties on May 12, 1975. The hearing was reconvened on June 10 for three days of cross-examination of rebuttal testimony and on the last day PRT submitted the instant Settlement Agreement.

On July 7, 1975, the presiding Administrative Law Judge certified to us the Settlement Agreement together with the following questions:

1. Is Staff required to file an environmental impact statement in this case, for any or all of the pending applications and for other uses of project lands and waters which are at issue in this case, pursuant to the National Environmental Policy Act, 42 U.S.C. 4332, and the Statements of General Policy and Interpretations of the Commission, 18 CFR 2.81?

2. If an environmental impact statement must be filed by the Staff, when should Staff file such a statement?

At the time of presentation of the Settlement Agreement on the hearing record (Tr. 2410-2435), there were no objections raised (Tr. 2438-2440). However, Mr. James E. Smith and the Committee to Save Lake Murray, while supporting the Agreement, feel that it does require the preparation of an EIS (Tr. 2438).

Comments on the Settlement Agreement were filed by Staff, PRT and

Licensee. All expressed their support for the Settlement Agreement. The only point of contention among them involves the proposed term of the lease, which is for 25 years. This would extend beyond the date of the license for Project No. 516 which expires August 4, 1977. In its comments, Staff notes prior Commission orders and letter orders<sup>1</sup> which have expressed our opinion and policy in connection with leases having terms which extend past the license expiration date. Under this policy our approval does not extend beyond the license expiration date (plus any period of time for which annual licenses are issued). Such a policy provides for maximum flexibility in order that we meet the requirements of the Federal Power Act that any project approved by this Commission will be best adapted to a comprehensive plan for all beneficial public uses. We reaffirm that policy and find no compelling reasons for deviating from it in the instant case.

Returning momentarily to the comment, supra, of James Smith and the Committee to Save Lake Murray that they have no objection to the Settlement Agreement but feel that an impact statement is required, we note that their position is not clear. That is, it is not certain if they would object to the Settlement Agreement if no EIS were prepared. However, we believe that the law is settled that concurrence in the Settlement Agreement by all parties to a proceeding is not necessary for our approval thereof.<sup>2</sup>

Turning then to the merits of the Settlement Agreement, we agree with all the parties that our approval would be in the public interest. Reference need only be made to Section 10(a) of the Federal Power Act,<sup>3</sup> and our own Order No. 313<sup>4</sup> to emphasize our concern, and that of the Congress as well, over the need to provide adequate recreation facilities at FPC licensed projects as an integral part of our responsibility to ensure the comprehensive development of the nation's lands and waters under the Federal Power Act. The record in this proceeding reflects the uncontested fact that there presently exists a deficit in the recreation facilities at the project (Tr. 2420). Dreher Island State Park will help to provide recreation facilities needed to meet the present demand as well as anticipated demand until 1985 (Tr. 642, 1438). Furthermore, this will be done with minimum intrusion on the local environment and existing facilities.

<sup>1</sup>The Susquehanna Power Company and Philadelphia Electric Power Company, Project No. 405; Philadelphia Electric Company, Project No. 2355, 34 F.P.C. 517 (1965). The Susquehanna Power Company and Philadelphia Electric Power Co., Project No. 405, 51 F.P.C. —, (June 13, 1974). P.U.D. No. 2 of Grant County, Washington, Project No. 2114, letter order 4/3/73; Pacific Gas & Electric Company, Project No. 619, letter order dated April 5, 1973.

<sup>2</sup>See *Pennsylvania Gas and Water Company, v. FPC*, 463 F.2d 1242 (1972).

<sup>3</sup>16 U.S.C. § 803(a). See also *Udall v. FPC*, 387 U.S. 428 (1967).

<sup>4</sup>34 F.P.C. 1546 (1965).

This result has been reached by scaling down the original proposal for the park<sup>5</sup> and by providing for various limiting covenants and articles in the Settlement Agreement. Some of the more important articles provide that: the FPC must approve any substantial changes in the plans (Article 5); use of the park is subject to the license, the Act and our Rules and Regulations thereunder (Article 6); waste water treatment discharges will be certified under the Federal Water Pollution Control Act and comply with the highest limitation standards possible (Article 12); prompt notification will be given to the Commission of any change in applicable water quality standards and an annual report will be submitted regarding compliance during the previous year (Articles 14 and 17); and a program to monitor discharges will be established (Article 18).

We find the proposal for Billy Dreher Island State Park as modified in the Settlement Agreement before us fully in accord with the public interest for Project No. 516 and a commendable example of cooperation among Federal, State and local interests in providing for the recreational needs of the public residing near the project and throughout the region in general.<sup>6</sup>

The only remaining issue then is the need for an EIS. As noted supra, the Administrative Law Judge ordered all parties to submit briefs on this question and has certified those briefs to us as part of the record. Staff has taken the position that no EIS is now required for the Billy Dreher Island application, nor regarding any of the other matters presently before this Commission in Project No. 516 (Staff Brief, p. 3). Licensee and Intervenor PRT and the South Carolina Department of Health and Environmental Control (DHEC) are also in general agreement on the lack of a need for an EIS for Billy Dreher Island,<sup>7</sup> although PRT states that the

<sup>5</sup>The original proposal was for development in 3 phases with the third to consist of a golf course, 60-unit lodge, and 30 park cabins. This has been discarded as not in keeping with the nature of the park, and the land to be used will remain undeveloped and used only for such recreational uses as hiking and nature trails (Tr. 2419).

<sup>6</sup>This park is part of the State Comprehensive Outdoor Recreation Plan, 1970-1984, as developed by PRT.

<sup>7</sup>We categorize the position of Licensee as being in agreement with Staff because the tone of its brief indicates that it feels the decision is one to be left to Staff and the Commission, and "Staff's position is supported by case law" (SCG&E Brief, p. 4). Likewise we categorize DHEC as agreeing with Staff since it states that Billy Dreher Island "will improve the quality of the human environment" (DHEC Brief, p. 11), although DHEC states that it would be premature to take a position on the issue of whether an EIS will be necessary at a future date in order to dispose of all matters presently pending, other than the State Park (DHEC Brief, p. 10). As we indicate, infra, we are only considering in this order the Dreher Settlement Proposal and environmental impacts associated therewith and remand to the ALJ for his decision the questions certified to us regarding the need for an EIS on the remaining matters.

<sup>8</sup>Besides applications for easements by Champion International Corporation, PRT for Billy Dreher Island, Lands End Development, and Licensee for an ash pond for the McMeekin Steam Plant, there exists a recommendation by a staff recreation witness that consideration be given to the development of a Lake Shore Management Plan to expand the scope of the Licensee's proposed regulations on shoreline development at the project, a question of the need for Licensee to reacquire islands in the reservoir lost through adverse possession, and an unresolved Show Cause Order.



Staff must file an assessment statement documenting its decision not to file an EIS. James Smith and the Committee to Save Lake Murray, as noted above, have taken the position that an EIS is required for Dreher Island Park under the National Environmental Policy Act of 1969 (NEPA).<sup>15</sup>

Section 102(2)(C) of NEPA<sup>16</sup> requires all federal agencies to prepare an EIS for any major federal action that will significantly affect the quality of the human environment. Superficial examination of the facts associated with Billy Dreher Island State Park indicates that this may indeed be a major federal action. For example, creation of the park on some 345 acres would cost approximately \$997,000 of federal funds from the Bureau of Outdoor Recreation and \$1,250,000 from South Carolina (Tr. 2416). The park would accommodate from 100,000 to 190,000 annual visitations (Tr. 2420) and generate about 60,000 gallons per day of treated effluent (Tr. 2422).

However, a closer examination of these statistics in the context of the present capacities of the project indicates that these impacts, i.e. increased visitations and treated effluent, will not have a significant effect upon the environment. For example, the annual visitations to Lake Murray during 1973 were 2,478,265, while the projected use in 1985 is 3,143,000 (Tr. 2417). Assuming Dreher Island Park will receive 190,000 annual visitations, this amounts to less than 8 percent of the 1973, and about 6 percent of the 1985, Lake Murray visitations. Furthermore, both water quality experts who testified in the proceeding agreed that the proposed discharges into Lake Murray from the facilities proposed in the four applications pending at that time,<sup>17</sup> of which Dreher Park is one, would have an insignificant impact on the Lake's water quality, assuming compliance with the state water quality standards (Tr. 2422). Staff's expert in the field of socio-economics concluded that the park would not cause any unique socio-economic impacts to the extent of being different from those impacts that would generally be expected from the growth and development anticipated for the four-county Lake Murray area (Tr. 2423). Staff's environmental specialist in the field of urban and regional planning examined the existing situation around Lake Murray relative to cultural development, existing land use, zoning, planning, and accessibility. He found no impact that would be unique or would significantly affect the environment (Tr. 2423). And Staff's witness in recreational planning, besides finding that there exists a present need for increased facilities and that Dreher Park would fulfill most needs until 1985, also testified that the development would not affect any surface water contact recreational activities presently

existing in the area (Tr. 647). In describing the visual impact of the park, he testified that the causeways and bridges associated with the park are located in an area that is not readily visible from other parts of Lake Murray (Tr. 648). These conclusions by Staff experts were similar to those of other experts testifying in the hearing and were not challenged.

With these facts in mind, we turn to the applicable law for guidance. The briefs submitted by staff and the parties in this regard have been helpful. It is clear from our recitation above of some of the basic facts involved herein that our decision on the need for an EIS for Billy Dreher Island will turn on our determination of the meaning of "significantly" in Section 102(2)(C) of NEPA. Although there is scant legislative history to rely on, there have been well reasoned Court decisions exploring precisely this term in the statute. Among the most helpful of these cases is *Hanly v. Kleindienst*.<sup>18</sup> Therein the Court noted as we have done about that "significantly" in Section 102(2)(C) is the key limiting term in determining the need for an EIS.<sup>19</sup> The Court went on to state:

... we are persuaded that in deciding whether a major federal action will "significantly" affect the quality of the human environment the agency in charge, although vested with broad discretion, should normally be required to review the proposed action in the light of at least two relevant factors: (1) the extent to which the action will cause adverse environmental effects in excess of those created by existing uses in the area affected by it, and (2) the absolute quantitative adverse environmental effects of the action itself, including the cumulative harm that results from its contribution to existing adverse conditions or uses in the affected area. Where conduct conforms to existing uses, its adverse consequences will usually be less significant than when it represents a radical change.<sup>20</sup> (Emphasis added).

Under this standard we think it is clear that the Billy Dreher Island State Park proposal would not have a significant effect on the environment of Lake Murray.<sup>21</sup> Although the basic purpose for building Project No. 516 may have been the development of water power, Lake Murray has long been used as a recreational resource and its importance in this regard increases yearly. As noted above, 1973 visitations were 2,478,265 and 1985 projections amount to 3,143,000.

<sup>15</sup> 471 F. 2d 823 (2d Cir. 1972), cert. denied 412 U.S. 908 (1973).

<sup>16</sup> "By adding the word 'significantly' however, [Congress] demonstrated that before the agency in charge triggered [the EIS] procedure, it should conclude that a greater environmental impact would result than from 'any major federal action'." *Id.* at 830.

<sup>17</sup> *Id.* at 830-831.

<sup>18</sup> See, also, *Maryland-National Capital Park and Planning Comm'n v. Postal Service*, 487 F. 2d 1029 (D.C. Cir. 1973). In discussing the importance of the term "significantly" the court stated at 1036: "The question of significance takes on a distinctive cast in the context of land use planning. We think that much may turn on whether the Federal Government conforms to or deviates from local or regional regulations of

Around the lake today can be found clubs, parks, cottages, permanent residences, and commercial facilities which support swimming, boating, fishing, hiking, picnicking, camping, and other recreational activities (Tr. 2417-8). Thus Dreher Island Park would not differ from the existing uses in the surrounding area but in fact would conform to them. Nor would it in absolute terms give rise to sizeable adverse environmental effects, either alone or cumulatively, as determined by the experts who have studied the proposal and testified thereon during the hearing. Furthermore, as discussed above, the Settlement Agreement contains numerous provisions to protect the environment, while minimizing and mitigating any adverse environmental effects of development.

Thus we are confident in finding, and we do so find herein, that approval of the application to develop Billy Dreher Island State Park as modified by the terms of the Settlement Agreement is not a major federal action significantly affecting the quality of the human environment at Lake Murray, South Carolina, and therefore the preparation of an EIS for the proposal is not required under NEPA nor our own Rules and Regulations thereunder.

However, there remains the question advanced by PRT of the need for the filing of a negative impact statement or environmental assessment. The procedures required by Section 102(2)(B) of NEPA<sup>22</sup> to assure a fair and informed preliminary or threshold decision regarding the need for an EIS are discussed in the *Hanly* case, supra. The court noted that neither NEPA nor any other federal statute mandates the specific type of procedure to be followed by federal agencies.<sup>23</sup> Notwithstanding this fact, however, the court goes on to state:

We ... hold that before a preliminary or threshold determination of significance is made the responsible agency must give notice to the public of the proposed major federal action and an opportunity to submit relevant facts which might bear upon the agency's threshold decision. We do not suggest that a full-fledged formal hearing must be provided before each such determination is made, although it should be apparent that in many cases such a hearing would be advisable. . . .<sup>24</sup>

In the instant proceeding a negative threshold decision by Staff regarding the need for an EIS was not made until evidence was received on the impacts associated with the pending applications (Tr. 1842-5, 2439). Staff's brief provides citation to the record in support of that decision. Thus, much more has been carried out in the instant proceeding than

land use. . . . The policy goals of NEPA are to be achieved in cooperation with State and local governments. Section 101(a), 42 U.S.C. § 4331(a). While the court found a lack of cooperation in that case, the opposite is true for Billy Dreher Island and the Court's rationale adds support to our conclusion that the impacts herein are not significant.

<sup>22</sup> 42 U.S.C. § 4332(2)(B).

<sup>23</sup> *Hanly v. Kleindienst* at 835.

<sup>24</sup> *Id.* at 836.

<sup>15</sup> 42 USC 4321 et seq.

<sup>16</sup> 42 USC 4332(2)(C).

<sup>17</sup> As stated previously, one of the four applications was dismissed by our order issued April 9, 1975.



the Court in Hanly required. Briefly, notice has been given, a local public hearing has been held, testimony and evidence were submitted and cross-examined by all parties in further hearings, and briefs on the need for an EIS were filed. All this was done before the Settlement Agreement was submitted. We believe that there exists a full and complete record upon the Billy Dreher Island proposal and that this record fully supports our conclusion that no EIS need be prepared. Furthermore, we believe that the record herein, as well as our decision, constitutes a full environmental assessment. To issue any other "statement" at this point would be mere redundancy.

Referring again to the MNCP&C v. Postal Service case, supra, the court therein discussed four criteria that should be considered to determine whether the agency has come to a correct conclusion on the lack of need for an EIS. These criteria include: (1) whether the agency took a hard look at the problem, as opposed to bald conclusions, unaided by preliminary investigation; (2) whether the agency identified the relevant areas of environmental concern; (3) whether the agency made a convincing case that the impact is insignificant; and (4) where there is impact of true significance, whether the agency convincingly established that changes in the project have sufficiently minimized it. We think that the record herein and our decision shows that the answers to all of these questions are affirmative and thus further supportive of our compliance with NEPA.

Finally with regard to the specific questions certified to us by the Administrative Law Judge concerning the need for an EIS on remaining matters, we remand those questions to the presiding judge for an initial determination. Our order of April 9, 1975, permitted the severance of the Billy Dreher Island application from the other applications in the hearing process for expeditious consideration. In reviewing the merits of Billy Dreher Island herein it has been necessary to examine the environmental impacts of that proposal in light of other pending matters to determine the need for an EIS on the state park at the present time, and we have done so. However, it has never been our intention to make a determination as to the appropriateness at a later point in time of requiring an EIS on all other pending matters once those matters had been more clearly defined and their effects determined.<sup>22</sup>

<sup>22</sup> MNCP&C v. Postal Service, at 1040.

<sup>23</sup> In this regard, we note that a comprehensive water quality study of Lake Murray is now being conducted by a consultant to Licensee and that the third of four quarterly reports has been filed with this Commission. A final report is scheduled for December, 1975. This type of information should be of value in making a determination of the future need for an EIS on other pending matters.

We note that no testimony or evidence has yet been received upon the application for an ash pond for the McMeekin Steam-Electric Generating Plant, which application has been consolidated with the others in the hearing process. The presiding judge should determine the most appropriate procedure to examine that application and subsequently make the initial decision as to which, if any, of the other pending applications should be granted and which, if any, require the preparation of an EIS, be it on an individual or cumulative basis.

*The Commission finds:* (1) The Settlement Agreement including all the terms and conditions thereto and subject to the additional condition set forth below is reasonable and appropriate and in the public interest in carrying out the provisions of the Federal Power Act and should be approved as hereinafter ordered.

(2) Our approval of the application for Billy Dreher Island as modified in the Settlement Agreement is not a major federal action significantly affecting the quality of the human environment, and therefore the preparation of an environmental impact statement in accordance with NEPA and our Order No. 415-C is not required.

(3) It is reasonable and appropriate to remand to the Administrative Law Judge the remaining issues as hereinbefore discussed.

*The Commission orders:* (A) The Settlement Agreement upon the application for permission to utilize the lands and waters of Project No. 516 to develop Billy Dreher Island State Park is incorporated herein by reference, and is hereby approved subject to all the terms and conditions set forth in said agreement: *Provided*, That our approval of the lease to PRT does not extend beyond the expiration date of the license for Project No. 516, plus any annual licenses that may be subsequently issued.

(B) The remaining issues certified to us by the Administrative Law Judge are remanded to him for disposition consistent with the opinions expressed herein.

(C) This order is without prejudice to any finding or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or persons affected by this order, in any proceeding now pending or hereafter instituted by or against South Carolina Gas and Electric Company or any person or party, except as provided in the settlement agreement.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL]

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28816 Filed 10-24-75; 8:45 am]

[Docket No. RP76-22]

# **SOUTH GEORGIA NATURAL GAS CO.**

## **Notice of Proposed Changes in FPC Gas Tariff**

OCTOBER 20, 1975.

Take notice that South Georgia Natural Gas Company (South Georgia), on October 10, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. The proposed changes are based on the 12-month period ending August 31, 1975, as adjusted, and would increase jurisdictional revenues by \$1,563,000.

South Georgia states that the principal reasons for the proposed rate increase are to reflect (1) an increase in the overall rate of return to 10.04%; (2) an increase in the book depreciation rate to 4.89% for South Georgia's compressor station equipment, other transmission and structures and improvements; (3) increased operation and maintenance expense; and (4) a projected decline in sales volumes.

Other changes proposed by South Georgia in its tariff include (1) increasing the Maximum Daily Quantity restriction under Rate Schedule G-1 from 3,500 Mcf to 5,000 Mcf; (2) increasing penalty charges for taking unauthorized over-run gas from \$3.00 to \$5.00; and (3) eliminating certain existing tariff provisions in order to conserve existing gas supplies.

Copies of the filing have been served upon South Georgia's jurisdictional customers and interested state public service commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 31, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28876 Filed 10-24-75; 8:45 am]

[Docket No. CI76-208]

# **SOUTH LOUISIANA PRODUCTION COMPANY, INC.**

## **Notice of Application**

OCTOBER 20, 1975.

Take notice that on October 8, 1975, South Louisiana Production Company, Inc. (Applicant), P.O. Box 52088, filed in Docket No. CI76-208 an application pur-



suant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to United Gas Pipe Line Company (United) from the Pilgrim Church Field, Allen Parish, Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it commenced the emergency sale of natural gas on September 24, 1975, from the subject acreage to United within the contemplation of Section 157.29 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for one year from the end of the 60-day emergency sale pursuant to the authorization requested in the instant application within the contemplation of Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell up to approximately 75,000 Mcf of natural gas per month at \$1.05 per Mcf at 15.025 psia, with no Btu or other price adjustments.

The application indicates that intrastate sales in the area are being made at prices ranging from \$1.1781 per Mcf to \$1.79 per Mcf of natural gas, and Applicant represents that \$1.05 is the lowest price acceptable for the natural gas which would be delivered.

Applicant alleges that the gas to be sold to United is committed after the term of the proposed sale to Ethyl Corporation pursuant to a contract dated August 1, 1975, which sale would be in intrastate commerce, and that the price pursuant to said contract would be \$1.50 per Mcf of natural gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests

filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 75-28877 Filed 10-24-75; 8:45 am]

[Docket No. R176-43]

# TERRA RESOURCES, INC., ETC.

## Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject To Refund<sup>1</sup>

OCTOBER 17, 1975.

Respondents have filed proposed changes in rates and charges for juris-

<sup>1</sup> Does not consolidate for hearing or dispose of the several matters herein.

## APPENDIX A

| Docket No. | Respondent            | Rate schedule No. | Supplement No. | Purchaser and producing area                           | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf <sup>2</sup> |                                      | Rate in effect subject to refund in docket Nos. |
|------------|-----------------------|-------------------|----------------|--------------------------------------------------------|---------------------------|----------------------|---------------------------------|-----------------------|----------------------------|--------------------------------------|-------------------------------------------------|
|            |                       |                   |                |                                                        |                           |                      |                                 |                       | Rate in effect             | Proposed increased rate <sup>3</sup> |                                                 |
| R176-43    | Terra Resources, Inc. | 5                 | 21             | Mountain Fuel Supply Co. (Wyoming) (Rocky Mountain).   | \$32,324                  | 9-18-75              |                                 | 3-19-76               | \$ 25.8019                 | \$ 26.8372                           |                                                 |
| R175-66    | Delco Petroleum Corp. | 12                | 9              | El Paso Natural Gas Co. (New Mexico) (Rocky Mountain). |                           | 9-19-75              |                                 | (?)                   | 28.14                      | \$ 25.76                             | R175-56.                                        |

<sup>1</sup> Unless otherwise stated, the pressure base is 15.025 lb/in.<sup>2</sup>.

<sup>2</sup> Last filed rate, inclusive of British thermal unit adjustment.

<sup>3</sup> Subject to British thermal unit adjustment from a base of 1,000 Btu/lb.

<sup>4</sup> Accepted to become effective on Sept. 19, 1975, subject to the existing proceeding in docket No. R175-56.

<sup>5</sup> Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.



Terra Resource's proposed periodic rate increase exceeds the applicable ceiling area rate in Opinion No. 658 and is suspended for 5 months.

Belco's tax change reflects reimbursement for taxes in effect as of July 1, 1975, and represents a change in the method of its tax computation resulting in a tax decrease. Belco's underlying rate is in effect subject to refund in Docket No. R175-56 and included all taxes in effect prior to July 1, 1975 based on the area rate clause of its contract. Since the underlying rate is in effect subject to refund, and the proposed rate is in excess of the applicable ceiling, the proposed tax decrease is accepted for filing as of the date of filing, subject to refund to the existing proceeding in Docket No. R175-56.

[FR Doc.75-28885 Filed 10-24-75;8:45 am]

[Docket No. CP76-112]

### TRANSCONTINENTAL GAS PIPE LINE CORP.

#### Notice of Application

OCTOBER 20, 1975.

Take notice that on October 2, 1975, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP76-112 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of an additional delivery point between itself and Consolidated Gas Supply Corporation (Consolidated), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that pursuant to a gas transportation agreement between itself and Consolidated dated September 12, 1972, as amended September 5, 1975, they agreed to an additional delivery point from Consolidated to Applicant at the tailgate of the Cow Island Plant, Vermillion Parish, Louisiana. The volumes that would be transported pursuant to said agreement would be redelivered by Applicant to Consolidated at a point near Liedy, Pennsylvania.

Applicant states that pursuant to the transportation agreement of September 12, 1972, Applicant is obligated on a firm basis to transport for Consolidated 71,548 Mcf of natural gas at 14.73 psia per day, for which service Consolidated is required to pay a demand charge regardless of utilization. Consolidated is said to own a working interest in South Timballer Block 185 Field Area, Offshore Louisiana. Under the terms of a transportation agreement between Consolidated and Trunkline Gas Company (Trunkline), Trunkline would transport natural gas owned or purchased by Con-

solidated to Applicant at the proposed delivery point for Consolidated's account. Such volumes would assist Consolidated in utilizing the firm transportation capacity committed to it under the September 12, 1975 agreement, it is stated.

Applicant states that no additional facilities are required to establish the proposed delivery point.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 5, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28879 Filed 10-24-75;8:45 am]

[Docket Nos. RP75-51, RP73-99]

### TRANSCONTINENTAL GAS PIPE LINE CORP.

#### Order Denying Petition for Interim and Permanent Protective Order and Application for Rehearing and Providing Procedures Pertaining to Confidential Information

OCTOBER 20, 1975.

On August 28, 1975, Texaco Inc. (Texaco) filed a pleading which it styled:

REQUEST FOR CLARIFICATION, CONTINGENT PETITION FOR INTERIM AND PERMANENT PROTECTIVE ORDER STAYING THE PUBLIC RELEASE OF CONFIDENTIAL DATA OR, ALTERNATIVELY, APPLICATION FOR REHEARING BY TEXACO INC.

Texaco is a respondent in Docket No. RP75-51 which is the investigation of

Transcontinental Gas Pipeline Company (Transco) to determine the extent of the reduced reserves and the bona fides of Transco and its supplies in meeting their past and future contract commitments. Texaco is concerned with the Commission's order of August 8, 1975, directing the Secretary to issue a Subpoena Duces Tecum for the production of certain books and records. This order by the Commission was issued in compliance with an order of the Court of Appeals for the District of Columbia in CADC No. 74-2036. Texaco is concerned with the compliance of Transco with this order which supplied the following information concerning data provided by Texaco to Transco on a confidential basis concerning gas reserves encountered in nine wells:

1. Blocks 545, 546, 548, 553, 563, 564, and 582, High Island Area, South Addition, Federal Domain, Offshore Texas and
2. Block 376, High Island Area, East Addition, South Extension, Federal Domain, Offshore Texas.

Texaco states that this information is confidential and its being made public would do irreparable harm to Texaco. In support of this contention it attaches an affidavit executed by L. W. Calahan, a vice president of Texaco in charge of the producing department, central United States. Texaco states that if the Commission should regard its August 8 order as requiring public release of this confidential data it would seek rehearing of the August 8, 1975 order. It describes in some detail the nature of the confidentiality of the information it has provided to Transco and that Transco has provided to the Commission. It cites Section 8(b) of the Natural Gas Act, various court cases, Section 1.36 of the Commission's Rules and Regulations, the Freedom of Information Act, as well as the 5th and 14th amendments of the Constitution. The pleading asks that the Commission "enter a permanent protective order staying the public release of Texaco's confidential data contained in Transco's memoranda . . . if the August 8, 1975, order allows for public release of same or, alternatively, grant rehearing on the August 8, 1975, order." Texaco also asks for interim stay of the public release of such data.

We will deny Texaco's request for an interim and permanent protective order and for rehearing, but will provide additional procedures to avoid any unnecessary disclosure of confidential information.

At the outset we emphasize the serious nature of this investigation and the overriding public interest requirement for a full and complete record. This proceeding began on January 8, 1975, when the Commission issued an order in Docket No. RP75-51, instituting an investigation into the reasons why Transcontinental Gas Pipeline Corporation (Transco) was experiencing a curtailment for the 1974 winter heating season far in excess of the level of curtailment Transco had projected as of September 1974. Hearings were held in this proceeding and evidence was presented by Transco and some of its

<sup>1</sup> The transportation service was authorized by order issued August 23, 1972, (48 FPC 380), and is rendered pursuant to Rate Schedule X-56 to Applicant's FPC Gas Tariff, Original Volume No. 2.



suppliers on the issues presented. On July 1, 1975, the Commission issued an order expanding the investigation to determine the need for any curtailment at all by Transco in its deliveries to its resale customers. The Commission Staff was directed to conduct the expanded investigation as required by the order as expeditiously as possible.

We emphasize that the contested information in this proceeding is information acquired in compliance with the order of the Court of Appeals for the District of Columbia Circuit. (CACD No. 74-2036). On August 1, 1975, the Court issued an order to this Commission directing it, *inter alia*,

Now, therefore, this Court will hold in abeyance any decision upon the order of the Federal Power Commission concerning Transco's plan for allocating the allegedly scarce gas supply until the Commission has completed its own investigation and report to this Court of Transco's claims of reduced reserves by immediate subpoena of Transco's books and records pertaining to all gas supplies in which it has any legal interest, whether by ownership, lease, contract, or other means and by field investigation has determined the extent of the reduced reserves and the bona fides of Transco and its suppliers in meeting their past and future contract commitments;

Before describing the steps that have already been taken to avoid any unnecessary disclosure of confidential information and procedures which we believe will balance the public necessity for a complete record and the legitimate needs, if they are legitimate, for the protection of confidential information, we will deal with Texaco's contentions in its pleading.

Most of Texaco's arguments were dealt with in our Order of September 10 in this docket dealing with a similar request by Superior Oil Company (Superior). As we stated in that order, Applicant's reliance on Section 8(b) is misplaced since 8(b) bars agents of the Commission from divulging information unless otherwise directed by the Commission or a court. Further, Texaco's arguments with reference to the Freedom of Information Act are specious. Texaco argues that the fourth and ninth exemptions of the Freedom of Information Act (5 U.S.C. 552) give blanket confidentiality to all material described in those exemptions. As we stated in our September 10 order,

Furthermore, Superior misconstrues the FOIA and in particular the fourth and ninth exemptions thereto.<sup>3</sup> Both the Courts<sup>4</sup> and the Commission<sup>5</sup> (with particular emphasis

on the fourth and ninth exemptions) have viewed the FOIA exemptions as a privilege of the agency in question, not of a private party attempting to protect the confidentiality of the information. These exemptions are permissive, not mandatory, that is, they permit, but do not require, an agency to withhold certain information. Moreover, legislative history surrounding FOIA supports this view.<sup>6</sup> Superior's interpretation would divert the FOIA from its primary purpose of opening the administrative processes to public scrutiny<sup>7</sup> and convert it into an implement for frustrating the Commission's performance of its statutory responsibilities.<sup>8</sup>

As we stated we have already taken steps to safeguard the information produced as a result of the Subpoena Duces Tecum issued in compliance with our August 8, 1975, order and the order of the Court of Appeals. We emphasize however that in taking these precautions we are not prejudging the legitimacy of the claim of confidentiality as to the information supplied in response to the subpoena. At our direction on August 15, 1975, the Secretary of the Commission made provision for the physical safeguarding of the material supplied in response to the subpoena. He also provided that

Only persons having written authorization from a bureau or office head will have access to the material. No unauthorized visitor will be permitted in the room. A log will be maintained for all persons entering or leaving the room. This log will show time of entry and time of exit and the name of the individual. If two or more individuals are in the room, each must sign the log.

Whether or not some or all of the information provided in response to the subpoena will be required to be on the public record as this proceeding unfolds is a matter we do not prejudge. The procedural steps outlined in the ordering clauses herein are designed to assure an adequate record without any unnecessary disclosure of confidential data.

The Commissioner orders: (A) Pursuant to the Commission's authority under Section 8 of the Natural Gas Act all relevant information acquired as a result of the Subpoena Duces Tecum issued pursuant to the Commission's order in this proceeding on August 8, 1975, and in compliance with the Order of the United States Court of Appeals for the District of Columbia Circuit, which Commission Staff deems required in presentation of Staff's case or Staff's cross-examination, may be offered into evidence by Staff, provided that Staff shall give all parties notice of its intention to do so at least ten (10) days in advance of such offer.

(B) The Presiding Administrative Law Judge shall without further order of the Commission admit into evidence herein any information acquired as a result of the hereinabove described Subpoena Duces Tecum which he finds to be relevant and necessary to develop a full and complete record in this proceeding.

<sup>3</sup> H.R. Rep. No. 92-1419, 92d Cong. 2d Sess. (1972), at 14.

<sup>4</sup> E.g., *Renegotiation Board v. Bannerkraft Clothing Company*, 415 U.S. 1, 17 (1974).

<sup>5</sup> The instant Transco curtailment investigation has been initiated and implemented by the Commission pursuant to Sections 10 and 14 of the Natural Gas Act.

(C) Any party (other than Staff) may seek access to the materials acquired as a result of the aforementioned subpoena by petition served on all parties and real parties in interest in the materials sought. All materials relevant to these proceedings shall be made available to such petitioner. Staff shall make a determination as to relevance and advise the petitioner and other parties and parties in interest ten (10) days prior to the release, if any, of the materials sought. The petitioner, or party aggrieved, may seek review by the Commission of the Staff determination of relevance made under this subparagraph (C) by appropriate motion.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.

[FR Doc.75-28880 Filed 10-24-75; 8:45 am]

## FEDERAL RESERVE SYSTEM

### FEDERAL OPEN MARKET COMMITTEE

#### Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on October 3, 1975, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from \$3 billion to \$4 billion the limit on changes between Committee meetings in System Account holdings of U.S. Government and Federal Agency securities, effective immediately for the period ending with the close of business October 21, 1975.

NOTE: For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, October 21, 1975.

MURRAY ALTMANN,  
Deputy Secretary.

[FR Doc.75-28821 Filed 10-24-75; 8:45 am]

## GENERAL SERVICES ADMINISTRATION

### REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

#### Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, November 13, 1975, from 10 a.m. to 4 p.m., Room 5A, 1776 Peachtree Street, N.W., Atlanta, Georgia 30309. The meeting will be concerned with the review of the conceptual design for the Columbia, South Carolina, Strom Thurmond Federal Building, U.S. Courthouse and Parking Facility. Frank and critical analysis of the proposed design is essential to insure that the design approach produces the best possible design solution. Accordingly, pursuant to a determination that it will be concerned with

<sup>1</sup> 552(b)(4): "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

<sup>2</sup> 552(b)(9): "geological and geophysical information and data, including maps, concerning wells."

<sup>3</sup> *Moore-McCormack Lines Inc. v. I.T.O. Corporation of Baltimore*, 508 F.2d 945, 950 (4th Cir. 1974); *La Motte v. Mansfield*, 438 F.2d 448, 451 (2d Cir. 1971).

<sup>4</sup> *Reliability of Electric and Gas Service*, Opinion No. 687, 51 FPC 464, 472 (1974) and Opinion No. 687-A, 51 FPC 1185, 1187 (1974); Order No. 526, *Natural Gas Companies Annual Report of Proved Domestic Gas Reserves*; FPC Form No. 40, Docket No. RM74-16, issued February 25, 1975 (slip op. at 22); and Order No. 509, *supra* note 4, (slip op. at 2).



a matter listed in 5 U.S.C. 552(b)(5) the meeting will not be open to the public."

Dated: October 15, 1975.

L. D. STROM,  
Regional Administrator.

[FR Doc.75-28764 Filed 10-24-75;8:45 am]

#### REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

##### Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, November 12, 1975 from 10 a.m. to 4 p.m., Room 5A, 1776 Peachtree Street NW., Atlanta, Georgia 30309. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed (a) Courthouse Annex and (b) Motor Pool and Vehicle Maintenance Facility, Miami, Florida. Frank and open discussion between panel members of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 552(b)(5) the meeting will not be open to the public."

Dated: October 15, 1975.

L. D. STROM,  
Regional Administrator.

[FR Doc.75-28765 Filed 10-24-75;8:45 am]

#### REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

##### Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, November 14, 1975, from 10 a.m. to 4 p.m., Room 5A, 1776 Peachtree Street, NW., Atlanta, Georgia 30309. The meeting will be concerned with the review of the conceptual design for the Ft. Lauderdale, Florida, Courthouse, Federal Office Building and Parking Facility. Frank and critical analysis of the proposed design is essential to insure that the design approach produces the best possible design solution. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 552(b)(5) the meeting will not be open to the public."

Dated: October 15, 1975.

L. D. STROM,  
Regional Administrator.

[FR Doc.75-28766 Filed 10-24-75;8:45 am]

#### INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

##### TRANSBOUNDARY IMPLICATIONS OF THE GARRISON DIVERSION UNIT

##### Public Hearings

The International Joint Commission, a permanent Canada and United States body established under the Boundary Waters Treaty of 1909, will hold initial public hearings at the times and places noted below on transboundary implications of the Garrison Diversion Unit being constructed in the State of North Dakota.

The Governments of Canada and the United States by letter of reference dated October 22, 1975, pursuant to Article IX of the Boundary Waters Treaty of 1909, have requested the International Joint Commission to "examine into and to report upon the transboundary implications of the proposed completion and operation of the Garrison Diversion Unit in North Dakota; and to make recommendations as to such measures, including modifications, alterations or adjustments to the Garrison Diversion Unit, as might be taken to assist the governments in ensuring that the provisions of Article IV of the Boundary Waters Treaty are honored." Article IV provides in part that "boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other." The Commission has been requested to submit its report to the governments not later than October 31, 1976. The complete text of the reference may be obtained upon request from either Secretary listed below.

The purpose of these public hearings is to receive testimony and evidence relating to the questions in the reference. The Commission hopes that these hearings will assist it in organizing and carrying out this task in a thorough and effective manner. The Commission's hearings are international in nature and irrespective of the location in which they are held, the citizens of both the United States and Canada are invited to attend and participate.

Opportunity will be given to anyone, either on his own behalf or in a representative capacity, to offer pertinent information which may assist the Commission in its inquiry. Statements may be made orally or in writing. If written statements are submitted, it is requested that if possible, thirty (30) copies be provided for the Commission's use. Additional copies may be deposited with the Secretaries at the hearings for the use of the news media and other present.

##### TIMES AND PLACES OF HEARINGS

Tuesday, November 18, 1975, 8:00 p.m., and Wednesday, November 19, 1975, 9:30 a.m., Ramada Inn, 1505 N. Broadway, Minot, N.D.

Wednesday, November 19, 1975, 7:30 p.m., Westward Ho Motel, Highway 2, West, Grand Forks, N.D.

Thursday, November 20, 1975, 3:00 p.m., and 8:00 p.m., Mariborough Hotel, 331 Smith St., Winnipeg, Manitoba.

W. A. BULLARD,  
Secretary, United States Section,  
International Joint Commission.  
D. G. CHANCE,  
Secretary, Canadian Section,  
International Joint Commission.

OCTOBER 23, 1975.

[FR Doc.75-28966 Filed 10-24-75;8:45 am]

#### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219]

##### JERSEY CENTRAL POWER AND LIGHT CO. Provisional Operating License; Correction

In FR Document 75-27663 appearing at page 48407 in the FEDERAL REGISTER of Wednesday, October 15, 1975, correction is hereby made by completing the blank space in the 4th paragraph following the word "By" and before the words "the licensee may file" by inserting "November 15, 1975".

Dated at Bethesda, Maryland, this 17th day of October, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,  
Chief, Operating Reactors Branch  
No. 3, Division of Reactor Li-  
censing.

[FR Doc. 75-28775 Filed 10-24-75; 8:45 am]

[Docket Nos. 50-500 50-501]

##### TOLEDO EDISON CO. ET. AL

##### Notice of Reconstitution of Board

In the Matter of the Toledo Edison Company, the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (Davis-Besse Nuclear Power Station, Units 2 and 3).

Dr. Richard F. Cole was a member of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict, Dr. Cole is unable to serve on this Board.

Accordingly, Dr. John R. Lyman, whose address is 404 Clayton Road, Chapel Hill, North Carolina 27514, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with Section 2.721(b) of the Rules of Practice.

Dated at Bethesda, Maryland this 21st day of October 1975.

JAMES R. YORE,  
Acting Chairman, Atomic Safety  
and Licensing Board Panel.

[FR Doc.75-28776 Filed 10-24-75;8:45 am]

[License No. 21-16256-01]

##### TRAIL CLINIC

##### Notice of Hearing

Trail Clinic, 18254 Livernois Avenue, Detroit, Michigan (Licensee) is the



holder of Byproduct Material License No. 21-16256-01 issued by the Nuclear Regulatory Commission (Commission). The license authorizes the human use of byproduct material for medical diagnostic purposes by Dr. Lawrence A. Baker, D.O. The license was issued on December 23, 1974. The expiration date of this license is December 31, 1979.

On August 15, 1975, the Acting Director of Inspection and Enforcement, pursuant to the Atomic Energy Act of 1954, as amended, and 10 CFR Parts 2, 20, and 30 of the Commission's regulations, served on the Licensee an Order to Show Cause and Order Suspending License. That order alleged that the Licensee had submitted an application dated October 12, 1974 containing certain facts upon which a decision to issue the license was based. That application set forth certain training and experience purportedly received by Lawrence A. Baker, D.O., in the use of radiopharmaceuticals for medical diagnostic purposes, which was relied upon by the Commission in determining the technical qualifications for the conduct of operations under the license. The order further stated that as a result of allegations received by the Commission, a series of investigations were conducted which revealed that certain information submitted, concerning the qualifications of the applicant for the license, was incapable of corroboration independent of the license application. Consequently, the order alleged that false statements were submitted, misrepresenting Dr. Baker's experience and training necessary to meet the requirements of the Atomic Energy Act of 1954 as amended, and Commission rules, regulations and license conditions issued thereunder. Because of the potential effect on the public health, safety or interest the order suspended all activities under the license effective immediately.

On August 20, 1975, the Licensee responded to the order requesting reconsideration or an extension of time to prepare an answer to the order. On September 4, 1975, the Director of Inspection and Enforcement extended the time for response thirty days. On September 29, 1975 the Licensee filed an Answer to the Order to Show Cause and Suspending License asking that the order be dismissed or in the alternative requesting a hearing pursuant to 10 CFR § 2.202. The Director of Inspection and Enforcement after consideration of the Licensee's response has determined that adequate cause has not been shown why the order should not be sustained.

Therefore pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10, Code of Federal Regulations, Part 2, "Rules of Practice", notice is hereby given that a hearing will be held before Samuel W. Jensch, Administrative Law Judge, at a time and place to be set by the Administrative Law Judge.

The Administrative Law Judge will consider and initially decide, as the issues in this proceeding:

a. Whether the Licensee violated the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations and the conditions of Byproduct Material License No. 21-16256-01 as specified in the Order to Show Cause dated August 15, 1975;

b. Whether Byproduct Material License No. 21-16256-01 should be permanently revoked.

A prehearing conference or conferences will be held by the Administrative Law Judge, at a date and place to be set by him, to consider pertinent matters in accordance with the Commission's "Rules of Practice". The date and place of the hearing will be set at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

An answer to this Notice, pursuant to the provisions of 10 CFR § 2.705 may be filed by the Licensee not later than November 17, 1975.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Pending further order of the Administrative Law Judge, Parties are required to file, pursuant to the provisions of 10 CFR § 2.708, an original and twenty (20) conformed copies of each such paper with the Commission.

Pursuant to 10 CFR § 2.785, the Commission authorizes an Atomic Safety and Licensing Appeal Board to exercise the authority and perform the review functions which would otherwise be exercised and performed by the Commission. The Appeal Board will be designated pursuant to 10 CFR § 2.787, and notice as to its membership will be published in the FEDERAL REGISTER.

Dated at Washington, D.C. this 21st day of October, 1975.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc. 75-28777 Filed 10-24-75; 8:45 am]

## NATIONAL SCIENCE FOUNDATION

### ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS SUBPANEL ON FACULTY RESEARCH PARTICIPATION

#### Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel on Science Education Projects—Subpanel on Faculty Research Participation.

Date: November 13, 14, and 15, 1975.

Time: November 13—8 p.m., November 14 and 15—9 a.m.

Place: Sheraton-Park Hotel and Motor Inn, Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Arthur C. Hoffman, Program Manager, Faculty Research Participation Program, National Science Foundation, Rm. 452-W, Washington, D.C. 20550, telephone (202) 282-7760.

Purpose of subpanel: To provide advice and recommendations concerning the merit of specific education proposals submitted to the Faculty Research Participation Program for consideration.

Agenda: Review and evaluate specific education proposals.

Reason for closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the education proposals. These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5), and (6).

Authority to close meeting: The determination made on February 21, 1975, by the Director of the National Science Foundation, pursuant to provisions of Section 10(d) of Public Law 92-463.

GAIL A. MCHENRY,  
Acting Committee  
Management Officer.

OCTOBER 22, 1975.

[FR Doc. 75-28767 Filed 10-24-75; 8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### ADVISORY COMMITTEE ON THE BALANCE OF PAYMENTS STATISTICS PRESENTATION

#### Notice of Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Office of Management and Budget's Advisory Committee on the Balance of Payments Statistics Presentation to be held on Thursday, November 20, 1975 in room 10103 of the New Executive Office Building, 17th Street between Pennsylvania Avenue and H Street, N.W., Washington, D.C., starting at 9:45 a.m.

The objective of the Committee is to develop recommendations to improve the presentation of the official statistics of the U.S. balance of payments which are published quarterly by the Department of Commerce in press releases and in the Survey of Current Business. The Committee will consider a draft report summarizing their recommendations to the Director of OMB for improving the presentation of balance of payments statistics to facilitate a more meaningful analysis by the government and the public.

The meeting will be open to the public observation and participation. Further information regarding the meeting may be obtained from the Statistical Policy Division, Office of Management and Budget, Room 10208, New Executive Office Building, Washington, D.C., telephone (202) 395-4730.

VELMA N. BALDWIN,  
Assistant to the Director  
for Administration.

[FR Doc. 75-28822 Filed 10-24-75; 8:45 am]



## CLEARANCE OF REPORTS

## List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 10/21/75 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

## NEW FORMS

## COUNCIL ON ENVIRONMENTAL QUALITY

Urban Development Controls; Developer Deductions and Contributions; single-time, municipalities over 10,000 in SMSA's & Urban Counties, community & veterans affairs division, Ellett, C. A., 395-3532.

## DEPARTMENT OF COMMERCE

Departmental and Other; Business Management Fellowship Program—Company Questionnaire—Student Questionnaire, Sec-893 Sec-894, annually, students and companies involved in program economics & general government division 395-3451.

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education; Followup survey of the act national sampled 1972-73 high school juniors, OE 447, OE 447-1, OE 447-2, single-time, school personnel and parents, Human Resources Division, Joan Turek, 395-3532.

## NEW FORMS

Office of Education; assessment of vocational education programs for disadvantaged students (State Administration forms), OE-448, 448-1, 448-2, single-time, Sea's, Human Resources Division, Joan Turek, 395-3532.

## REVISIONS

## DEPARTMENT OF AGRICULTURE

Food and Nutrition Service; survey to develop a profile of school food service personnel, single-time, School Food Service personnel, Sunderhauf, M. B., 395-6140.

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education; Directory of Education Associations (wp-dating and initial listing), OE 5015, OE 5016, annually, education associations, Harry B. Sheftel. Right to read financial and performance report, OE 361, semi-annually, Sea's Lea's, education institutions, Lowry, R. L., 395-3772.

## EXTENSIONS

## DEPARTMENT OF AGRICULTURE

Statistical Reporting Service; monthly report of turkeys and chickens tested for pullorum Disease by State agencies, monthly, State Poultry Improvement Associations, Marsha Traynham, 395-4529.

## DEPARTMENT OF DEFENSE

Departmental and other: U.S. Air Force Military Working Dog Program—Instructions and forms, on occasion, dog owners, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,

*Budget and Management Officer.*

[FR Doc.75-29025 Filed 10-24-75;8:45 am]

## CLEARANCE OF REPORTS

## List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 10/22/75 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

## NEW FORMS

## ENVIRONMENTAL PROTECTION AGENCY

Guidance package for evaluation of laboratories, single-time, air pollution agencies in western U.S., Lowry, R. L., 395-3772. Household health survey for lead, single-time, households exposed to various traffic densities, Dick Eisinger, 395-6140.

## DEPARTMENT OF COMMERCE

Bureau of Census; survey of income and education pretest control card and questionnaire, SIE-90X, SIE-91X, SIE-92X, single-time, selected households in Phila. & Miami, George Hall, 395-6140.

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service; Child support enforcement program under title IV-D, SRS-OA-41-SL, OCSZ-OA, 41- 41.4A, 41.16, 41.17, quarterly, States' IV-D agency States' welfare agencies, Lowry, R. L., 395-3772.

Alcohol, Drug Abuse and Mental Health Administration; Children's behavioral profiles: checklists A and B single-time, parents of children being seen in clinical settings, Dick Eisinger, 395-6140.

## DEPARTMENT OF TRANSPORTATION

Federal Highway Administration; Survey of formalized special traffic control measures, single-time, State highway & law enforcement agencies, Straaser, A., 395-5867.

## REVISIONS

## VETERANS ADMINISTRATION

Application for a medical school grant, 10-1494, 10-1494A, annually, colleges and universities, Caywood, D. P., 395-3443.

## EXTENSIONS

## DEPARTMENT OF DEFENSE

Department of the Air Force; contractor reporting—(production difficulties and quantity of materials), monthly, defense aerospace contractors, Marsha Traynham, 395-4529.

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education; Elsie VI Part A-1 fall 1973 report on membership by grade for selected counties, OE 2350-5, annually, state education agency, Marsha Traynham, 395-4529.

PHILLIP D. LARSEN,

*Budget and Management Officer.*

[FR Doc.75-29024 Filed 10-24-75;8:45 am]

## POSTAL SERVICE

## MAIL TO CANADA

## Suspension of Private Express Statutes

Canadian postal workers have gone on strike. The U.S. Postal Service has placed an embargo on all mail addressed to Canada.

In view of the strike, the Postal Service has determined that it is in the public interest to suspend and hereby does suspend the operation of 39 U.S.C. 601(a) (1) through (6) and 39 CFR 310.2(b) (1) through (6) so as to permit the carriage of letters destined for delivery in Canada out of the mails without paying postage or meeting any of the other conditions in such provisions of law and regulation. This suspension shall remain in effect until further notice.

(39 U.S.C. 401, 404, 601)

LOUIS A. COX,  
General Counsel.

[FR Doc.75-28992 Filed 10-23-75;2:34 pm]

## SECURITIES AND EXCHANGE COMMISSION

[70-5745]

## GEORGIA POWER CO.

## Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

OCTOBER 20, 1975.

Notice is hereby given that Georgia Power Company ("Georgia") 270 Peachtree Street, N.W., Atlanta, Georgia 30303, an electric utility subsidiary company of The Southern Company ("Southern"), a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company



Act ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Georgia proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to \$100,000,000 principal amount of its First Mortgage Bonds, % Series. The proposed series of bonds will bear a maturity date within the range of 5 to 30 years, such maturity date will be determined by Georgia after the date of public invitation for proposals. The interest rate and the price, exclusive of accrued interest, to be paid to Georgia (which will be not less than 98% nor more than 102% of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an Indenture, dated as of March 1, 1941, between Georgia and Chemical Bank, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of December 1, 1975, which includes a prohibition until December 1, 1980, against refunding the bonds with or in anticipation of the proceeds from borrowings at a lower effective interest cost. Georgia further states it may request, by further amendment, the sale of its bonds be excepted from the competitive bidding requirements of Rule 50.

Georgia will apply the proceeds from the sale of the bonds, together with (1) cash contributions to capital of \$86,000,000 by Southern during 1975 (File No. 70-5630), (2) the proceeds from the sales of certain properties to Oglethorpe Electric Membership Corporation (File Nos. 70-5592, 70-5658 and 70-5696), (3) proceeds from the sale of \$100,000,000 principal amount of first mortgage bonds and 3,000,000 shares (\$75,000,000) of preferred stock earlier in 1975, (4) funds provided through the issuance of tax-exempt revenue bonds by public authorities for construction of certain pollution control facilities for Georgia, and (5) any excess cash on hand to finance in part its 1975 construction program (estimated at \$473,751,000), to pay notes payable in the form of bank notes and commercial paper notes incurred for construction purposes and for other lawful purposes. Georgia estimates that it will not be necessary to sell any additional securities in 1975 for construction purposes except for commercial paper and short-term notes. Georgia estimates that upon successful consummation of its program for sale of long-term securities during 1975, no notes payable will be outstanding at December 31, 1975.

The Commission has issued an order (HCAR No. 19037) giving Georgia authority to issue and sell, through March 31, 1976, short-term notes to banks and dealers in commercial paper up to \$140,000,000 at any one time outstanding.

It is stated that Georgia Public Service Commission has authorized the pro-

posed issuance and sale of the bonds by Georgia. It is further stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. A statement of the fees and expenses to be incurred in connection with the transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than November 13, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[PR Doc.75-28757 Filed 10-24-75; 8:45 am]

[Release 34-11749 File No. SR-NASD-75-2]

#### NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

##### Self Regulatory Organizations

In the matter of proposed rule change by National Association of Securities Dealers, Inc.

Pursuant to Section 19(B)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) notice is hereby given on October 14, 1975 the above-mentioned self regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

#### THE NASD'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The following is the full text of the proposed amendment to Appendix A of Section 30, Article III of the Rules of

Fair Practice of the National Association of Securities Dealers, Inc.

Section 1—unchanged  
Section 2—unchanged  
Section 3—unchanged  
Section 4(a) (1), (2), (3)—unchanged

#### MINIMUM MARGIN

4(a)(4) Minimum maintenance requirements for any put or call issued, guaranteed or carried "short" in a customer's account shall be:

(i) in the case of puts and calls traded in the over-the-counter market, 50% of the market value of the equivalent number of shares of the underlying securities, plus any unrealized loss or less any unrealized profit;

(ii) in the case of puts and calls listed or traded on a registered national securities exchange, 30% of the market value of the equivalent number of shares of the underlying security, plus any unrealized loss or less any unrealized profit;

(iii) notwithstanding the foregoing, the minimum margin on each put or call issued, guaranteed or carried "short" in a customer's account shall be not less than \$250; and,

Sections 5, 6—unchanged.

#### SECTION 7—PUT AND CALL OPTIONS

(a) Each put or call shall be margined separately. Any difference between the market price of the underlying security and the exercise price of a put or call will be of value only in providing margin on that particular put or call. Substantial additional margin must be required on options issued, guaranteed or carried "short" with an unusually long period of time to expiration (generally, more than six months and ten days), or written on securities subject to unusually rapid or abrupt changes in value, or which do not have an active market, or where the securities subject to the option cannot be liquidated promptly.

(b) If both a put and a call for the same number of shares of the same security are issued, guaranteed or carried "short" for a customer, the margin shall be the greater of that required on either the put or the call, except that:

(i) the put and the call shall each be subject to a minimum requirement of \$250, and

(ii) if there is unrealized loss on both the put and the call, the amount of margin required shall be not less than the combined unrealized loss of both.

(c) When a call that is listed or traded on a registered national securities exchange is carried "long" for a customer's account and the account is also "short" a call listed or traded on a registered national securities exchange expiring on or before the date of expiration of the "long" listed call and written on the same number of shares of the same security, the margin required on the "short" call shall be the lower of:

(i) the margin required pursuant to Section 4(a)(4)(ii) above, or

(ii) the amount by which the exercise price of the "long" call exceeds the exercise price of the "short" call.



(d) When a call is issued, guaranteed or carried "short" against an existing net "long" position in the security under option or in any security exchangeable or convertible within a reasonable time without restriction other than the payment of money into the security under option, no margin need be required on the call, provided such net "long" position is inadequately margined in accordance with this Rule.

(e) When a call is issued, guaranteed or carried "short" against a net "long" position in an exchangeable or convertible security, as outlined above, margin shall be required on the call equal to any amount by which the conversion price of the "long" security exceeds the exercise price of the call.

(f) When a call is issued, guaranteed or carried "short" against a net "long" position in a security exchangeable or convertible into the security under option within a reasonable period of time and without restrictions other than the payment of money and when the conversion price of the exchangeable or convertible security does not exceed the exercise price of the call, no margin need be required on the call if the "long" position is properly margined in accordance with Section 4(a) hereof.

(g) When a put is issued, guaranteed or carried "short" against an existing net "short" position in the security under option, no margin need be required on the put, provided such net "short" position is inadequately margined in accordance with this Rule.

(h) When determining net "long" and net "short" positions, offsetting "long" and "short" positions in exchangeable or convertible securities or in the same security shall be deducted. When computing margin on such an existing net stock position carried against a put or call, the current market price used shall not be greater than the call price in the case of a call or less than the put price in the case of a put.

(i) When a member issues or guarantees an option to receive or deliver securities for a customer, such option shall be margined as if it were a put or call.

(j) An exchangeable or convertible security shall cease to have value for margin purposes as of its expiration date and cannot be used thereafter for purposes of this Rule.

Sections 8-14—unchanged.

#### SECTION 15 ACCRUED INTEREST

(a) Accrued interest may not be credited to an account except as provided in paragraph (b).

(b) A member may credit to a customer's account accrued interest in obligations issued or unconditionally guaranteed by the U.S. Government or any agency thereof provided that such se-

curities are registered in the member's name or that of its nominee or, in the case of bearer bonds, are in the possession of the member and, provided further, that on a concurrent basis accrued interest on the outstanding debit balance in that account is entered as of the same date.

#### THE NASD'S STATEMENT OF BASIS AND PURPOSE

##### PURPOSE OF PROPOSED RULE CHANGE

The amendment to Appendix A of Section 30, Article III of the Rules of Fair Practice will cause the NASD margin requirement on option contracts to conform to a uniform standard proposed by the Securities and Exchange Commission. The amendments provide for a 30 percent margin maintenance requirement for listed options and a 50 percent margin maintenance requirement on over-the-counter options. The present Section 4(a)4 makes no distinction between listed and over-the-counter options and provides for a 50 percent margin maintenance requirement on the security underlying an option. Additionally, the amendments provide that the Appendix will cover "short" call options offset by the purchase of "long" calls; "short" calls hedged by "long" convertible securities; and, the treatment of "short" puts and calls for the same underlying security when carried in the same customer's account. Minimum equity and standardized procedures for computing required margin in giving value to option contracts are also included in the amendment.

New Section 15 of Appendix A provides that accrued interest may not be credited to a margin account and not considered margin equity unless the interest is on U.S. Government or agency securities; the securities are registered in the member's name or nominee or, in the case of bearer bonds, in the possession of the member; and the accrued interest on the customer's outstanding debit balance is entered in the account on the same date.

##### BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 7(c) of the Securities Exchange Act of 1934 provides that it shall be unlawful for any broker or dealer, directly or indirectly, to extend or maintain credit or arrange for the extension or maintenance of credit to or for any customer on any security (other than an exempted security) in contravention of the rules and regulations which the Board of Governors of the Federal Reserve System shall prescribe. On July 8, 1969, the Federal Reserve Board adopted amendments to their regulations designed principally to broaden its control of credit on over-the-counter securities. Under these amendments, those OTC

stocks meeting certain criteria and debt securities convertible into such stocks, became subject to margin requirements. Section 15A of the Securities Exchange Act of 1934 provides an association of brokers and dealers shall not be registered as a national security association unless the Commission determines that the rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors in the public interest and to regulate by virtue of any authority conferred by this Act. Section 30 of the Rules of Fair Practice adopted by the Board of Governors of the Association under that authority and nondisapproved by the SEC provides that a member shall not effect a securities transaction in a margin account in a manner contrary to the requirement adopted by the Board of Governors. Appendix A contains those requirements adopted by the Board and nondisapproved by the Commission.

##### COMMENTS RECEIVED FROM THE MEMBERS, PARTICIPANTS OR OTHERS ON THE PROPOSED RULE CHANGE

Because Section 30 of Article III of the Rules of Fair Practice authorizes the Board of Governors alone to establish the minimum amounts of initial and maintenance margin required to be obtained by members from customers, comments of the membership on the proposed amendment to Appendix A were not solicited or received.

##### BURDEN ON COMPETITION

Because the Securities Exchange Act places on the association the obligation to regulate the activities of its members' margin dealings in option contracts, and provides a statutory basis for the establishment of minimum margin requirements, and because the proposed amendments are designed to conform the NASD requirements to uniform standards proposed by the Securities and Exchange Commission and adopted by the registered national securities exchanges, it is felt that there is no burden on competition imposed by the proposed rule change and that it is in furtherance of the purposes of the Act.

The Association has consented to an extension of those time periods specified in Section 19(b)(2) of the Act as the Commission feels is necessary for proper review. On completion of this review, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments



concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 28, 1975.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

OCTOBER 17, 1975.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.75-28758 Filed 10-24-75; 8:45 am]

## URBAN REINVESTMENT TASK FORCE

### NEIGHBORHOOD HOUSING SERVICES AND PRESERVATION PROJECTS

#### Application Procedures

##### INTRODUCTION

The Urban Reinvestment Task Force is a joint effort of the heads of the Federal financial regulatory agencies and the Secretary of the U.S. Department of Housing and Urban Development to stimulate the development of local partnerships committed to a coordinated neighborhood reinvestment strategy. The Co-Directors of the Urban Reinvestment Task Force are:

Carla A. Hills, Secretary, U.S. Department of Housing and Urban Development.

Garth Marston, Acting Chairman, Federal Home Loan Bank Board.

Phillip C. Jackson, Jr., Member, Board of Governors, Federal Reserve System.

Frank Wille, Chairman, Federal Deposit Insurance Corporation.

James E. Smith, Comptroller of the Currency.

A small staff headed by Staff Director William A. Whiteside of the Federal Home Loan Bank Board is based in Washington, D.C. A HUD demonstration grant of \$2.5 million for FY 1976 goes toward Task Force administrative support and dissemination efforts and modest grants to local operational programs. Additional administrative support comes from the Federal Home Loan Bank Board.

The Task Force is involved in two separate programs, Neighborhood Housing

Services and Neighborhood Preservation Projects. Both programs involve the creation of a local partnership bringing together neighborhood residents, the private sector and local government. The major thrust of the Task Force is the development of Neighborhood Housing Services (NHS) programs. Presently there are sixteen operational NHS programs and twelve in the developmental process. NHS programs are developed with the direct local assistance of the Task Force. Neighborhood Preservation Projects (NPP), in contrast, have been developed locally without Task Force assistance and are operational or at the point of commencing operations when the Task Force becomes involved.

#### NEIGHBORHOOD HOUSING SERVICES

Important features of a Neighborhood Housing Services program are:

1. A neighborhood in which the housing stock is basically sound but beginning to show signs of deterioration, and where there is a high degree of home ownership.

2. Neighborhood residents who want to preserve their neighborhood and improve their homes, and are willing to put their effort into establishing and operating a NHS.

3. A local government which agrees to reinvest in the neighborhood by making necessary improvements in public amenities and by conducting an appropriate housing code compliance program coordinated with NHS activities.

4. A group of financial institutions who agree to reinvest in the neighborhood by making loans at market rates to all homeowners who meet normal credit standards. Participating financial institutions normally make tax-deductible contributions to the NHS to meet its operating costs.

5. A "High-Risk" Revolving Loan Fund which stands ready to make loans at flexible rates and terms to residents who do not meet commercial credit standards. Funds for the revolving loan fund are normally contributed by foundations, local corporate sources, and increasingly by local government from Community Development Block Grant funds. Matching grants at varying ratios may be provided by the Urban Reinvestment Task Force.

6. Finally, the NHS organization, a state-chartered private, nonprofit corporation. Each NHS has a board of directors of which a majority are community residents with significant representation from the financial institutions. A staff of typically three persons carries out NHS' work of financial counseling, assistance with rehabilitation specifications and bids, careful monitoring of contractors, administration of the revolving loan fund, and liaison with city agencies and financial institutions.

#### ROLE OF THE URBAN REINVESTMENT TASK FORCE

The Task Force plays an active catalytic role in developing a Neighborhood Housing Services program. The developmental process spans 8 to 10 months and includes:

1. Reviewing the application to develop a NHS program, and if it shows promise, conducting a field review to determine if the basic elements for a successful NHS program exist.

2. Entering into a developmental agreement with a local entity to assist local residents, financial institution representatives, and representatives of local government create a NHS program.

3. Conducting a careful survey of local resources, and securing the interest of relevant institutions and individuals.

4. Conducting an educational process, featuring several workshops, designed to acquaint representatives of all of the relevant segments of the community with operational details of the NHS program, and assisting them in fitting the general model to local conditions.

5. Assisting in the organization, incorporation, funding, and selection of staff for the NHS.

6. Training the NHS staff and assisting in the installation of operating procedures adapted to local needs and conditions.

7. Providing (subject to availability of funds) a seed money grant, or assisting in securing one from other sources, to initiate the ongoing fund raising program for a High Risk Revolving Loan Fund.

8. Conducting a workshop for local lending officers, appraisers, mortgage insurers and regulatory officials to enable them to appreciate the expected impact of the NHS coordinated reinvestment program on the future of the neighborhood.

9. Providing ongoing information and technical assistance to the newly formed private, non-profit NHS program.

#### DEVELOPMENTAL AGREEMENT

In assisting a locality to create a Neighborhood Housing Services program, the Urban Reinvestment Task Force will enter into an agreement with a local entity to conduct a careful developmental program lasting 8 to 10 months. The cost to the local entity of this developmental program is in the range of \$30,000 to \$50,000. This covers the cost of a local full-time staff person hired by the Task Force for six to eight months, and a series of workshops, including travel for participants to an operating NHS in another city. The workshops are designed to bring together leaders of financial institutions, city department heads and key persons from the community to design an effective program for that locality.



The goal of this developmental program is the establishment of a NHS as an independent, local, non-profit corporation.

#### GRANTS

Only upon completion of a successful developmental program will the Task Force consider making a matching grant to the NHS to stimulate the development of a High Risk Revolving Loan Fund. Grants may be made to the NHS non-profit corporation in amounts of \$100,000 or less. The Task Force has resources in its Fiscal 1976 budget that will permit only a very limited number of such grants.

#### SPECIAL STATE PROGRAMS

The limited resources of the Task Force will not permit the development of NHS programs in every state, or more than one program in any one state during its 1976 Fiscal Year. Applications are encouraged from state agencies, however, to enter into a partnership with the Task Force, whereby state financial resources could be deployed to cover supervisory staffing costs and/or seed money grants to local NHS programs, complementing Task Force technical resources. Under such Task Force-state partnership arrangements, the Task Force could develop several programs in a given state.

Such a program, for example, could involve state funding of \$200,000, matched by Task Force funding of \$100,000, providing support for full-time Task Force supervisory staff for that state, as well as seed money grants for as many as three NHS programs in that State.

#### MULTI-NEIGHBORHOOD NHS PROGRAMS

Where resources have been adequate, the Task Force has found it possible to create NHS programs which serve two or more neighborhoods in a given city. Applications for such programs should indicate potential sources of funding for the NHS program at annual levels of typically \$50,000 per neighborhood for administrative costs and \$100,000 per neighborhood for additions to the High Risk Revolving Loan Fund.

Several of the Fiscal 1976 NHS developmental programs may include expansion to one or more additional neighborhoods of already-existing NHS programs. Applications for such assistance should indicate potential sources of the additional annual funding referred to above.

#### SELECTION CRITERIA FOR NHS PROGRAMS

Before entering into a developmental agreement, the Task Force must assure itself that the basic elements for a successful NHS program exist. Each community will have a different mix, with greater strengths in some areas than in others. In determining whether a par-

ticular community's mix can produce a viable program, the degree of presence of the following elements will be considered:

1. Local government capacity and willingness to participate with a sensitive and appropriate code compliance program, appropriate planning and zoning activities, public service improvements, and public works expenditures;
2. Potential financial institution leadership;
3. Potential neighborhood support and leadership;
4. Foundation/Industrial/civic/local governmental resources to support a growing High Risk Revolving Loan Fund;
5. Interest of Federal, state, and other agencies in assisting and/or cooperating;
6. Active leadership from at least one (local government, financial industry or neighborhood group) sector.

#### NEIGHBORHOOD PRESERVATION PROJECTS (NPP)

The Urban Reinvestment Task Force is also participating in the developmental funding of a limited number of selected demonstration projects, called Neighborhood Preservation Projects (NPP). The Task Force will identify, monitor and evaluate locally developed neighborhood preservation programs which show promise of potential replicability in other cities. Those programs selected receive modest demonstration grants toward data collection, documentation, and support of the project itself.

#### PROGRAM AREAS FOR NEIGHBORHOOD PRESERVATION PROJECTS

The Task Force is seeking a number of replicable resource packages to deal with the problems of disinvestment in neighborhoods in various stages of the decline process.

1. The Task Force will consider applications for grant support for selected programs which include (but are not limited to) one or more of the following areas:
  - a. Protection of property-owner and commercial investment.
  - b. Real estate marketing practices.
  - c. Business district revitalization.
  - d. Innovative financing and economic incentive to stabilize multi-family buildings.
  - e. Intervention strategies to prevent default and foreclosure.
  - f. The purchase, rehabilitation, and marketing of foreclosed and vacant properties (FHA/Conventional).
  - g. Long-term maintenance programs for residential and commercial properties.
  - h. Innovative programs to stabilize neighborhoods undergoing transition.
2. In addition to the above, applications will be considered which, in combination with one or more of the above areas, include elements designed to in-

crease the level of neighborhood confidence, such as those affecting:

- a. Perceptions of personal and property safety.
- b. Quality of public schools.

#### SELECTION CRITERIA FOR NEIGHBORHOOD PRESERVATION PROJECTS

1. The project should involve a partnership of neighborhood residents, the private sector, and local government.
2. The project should be operational.
3. The project should be specific to a neighborhood or neighborhoods, and should either have demonstrated success or show a strong probability of success in upgrading that/those neighborhood(s).
4. Neighborhood residents and private sector representatives should normally be involved at a policy level in program development.
5. Local government should be willing to allocate financial resources to the project.
6. The sponsoring agency should have a demonstrated capability to perform successfully in the area of neighborhood preservation.
7. The project sponsors should be willing to provide information which can be analyzed by the Task Force or its participating agencies to judge the effectiveness of the project. Sponsors should also be willing to offer their services to assist others who may wish to replicate their project.

#### APPLICATION PROCEDURE

Application forms are available upon request. Local entities may submit to the Urban Reinvestment Task Force applications and materials supporting their readiness to be considered for either:

1. Services of the Task Force in development of a Neighborhood Housing Services (NHS) or,
2. Funding for a Neighborhood Preservation Project (NPP).

The Task Force will review materials submitted and select promising submissions for field review.

Cities or other governmental jurisdictions or non-public entities wishing to apply for Task Force assistance should submit a formal application to the Urban Reinvestment Task Force by December 15, 1975.

Top ranking applicants can expect field visits and further dialogue.

Following field reviews, applications will be ranked according to their promise as demonstrations, and agreements will be entered into with the top ranking local entities, subject to availability of Task Force resources.

Inquiries should be addressed to:

Urban Reinvestment Task Force, 320 First Street, N.W., Washington, D.C. 20562.

WM. A. WHITESIDE,  
Staff Director.

[FR Doc.75-28771 Filed 10-24-75; 8:45 am]



## DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-252]

## AMERICAN SAFETY EQUIPMENT CORP.

## Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 15, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Textile Workers Union of America on behalf of the workers and former workers of Medina, Ohio division of American Safety Equipment Corporation, Encino, California (TA-W-252). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with safety protective equipment including motor cycle helmets & accessories, police safety liners & helmets, automobile seat belts produced by American Safety Equipment Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of October 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc. 75-28853 Filed 10-24-75; 8:45 am]

[TA-W-254]

## BROWN SHOE CO.

## Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 15, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Murphysboro, Illinois plant of Brown Shoe Company, St. Louis, Missouri (TA-W-254). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's footwear produced by Brown Shoe Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of October 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc. 75-28854 Filed 10-24-75; 8:45 am]

[TA-W-240]

## CALIPER CLOTHES, INC.

## Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 14, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974

("the Act") by the Amalgamated Clothing Workers of America, on behalf of the workers and former workers of Caliper Clothes, Inc., Philadelphia, Pennsylvania (TA-W-240). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's sack coats produced by Caliper Clothes, Inc., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of October 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc. 75-28855 Filed 10-24-75; 8:45 am]

[TA-W-253]

## CARTHAGE MARBLE CORP.

## Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 15, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Carthage Marble Corporation, Carthage, Missouri (TA-W-253). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.



The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with marble produced by Carthage Marble Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of October 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc.75-28856 Filed 10-24-75;8:45 am]

[TA-W-230]

#### FASHIONBILT CLOTHES

#### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 14, 1975, the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America, on behalf of the workers and former workers of Fashionbilt Clothes, Philadelphia, Pennsylvania (TA-W-230). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's and being produced by Fashionbilt Clothes, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial

separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of October 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc.75-28857 Filed 10-24-75;8:45 am]

[TA-W-255]

#### FASHION MAID KNITTING MILLS, INC.

#### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 17, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union, International Ladies Garment Workers, on behalf of the workers and former workers of Fashion Maid Knitting Mills, Incorporated, Philadelphia, Pennsylvania (TA-W-255). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's, boys' and ladies' sweaters produced by Fashion Maid Knitting Mills, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility require-

ments of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 17th day of October 1975.

DOMINIC SORRENTINO,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc.75-28858 Filed 10-24-75;8:45 am]

[TA-W-250]

#### INFANTA KNITTING MILLS, INC.

#### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 15, 1975, the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union on behalf of the workers and former workers of Infanta Knitting Mills, Incorporated, Rockledge, Pennsylvania (TA-W-250). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's and children's knitted outerwear produced by Infanta Knitting Mills, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is



filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of October 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc.75-28859 Filed 10-24-75; 8:45 am]

[TA-W-226]

#### JACOB SIEGEL COMPANY, INC.

#### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 14, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America, on behalf of the workers and former workers of Jacob Siegel Company, Inc., Philadelphia, Pennsylvania (TA-W-226). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with topcoats and overcoats produced by Jacob Siegel Company, Inc., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor,

3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of October 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc.75-28860 Filed 10-24-75; 8:45 am]

[TA-W-251]

#### MAJESTIC SWEATER MILLS, INC.

#### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 15, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Knit Goods Union on behalf of the workers and former workers of Majestic Sweater Mills, Incorporated, Philadelphia, Pennsylvania (TA-W-251). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's, boys' and ladies' sweaters produced by Majestic Sweater Mills, Incorporated, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of October 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc.75-28861 Filed 10-24-75; 8:45 am]

[TA-W-249]

#### SPERRY VICKERS, INC.

#### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 14, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Joplin, Missouri plant of Sperry Vickers, Incorporated, Troy, Michigan, a division of Sperry Rand Corporation, New York, New York (TA-W-249). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with hydraulic pumps produced by Sperry Vickers, Incorporated, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of October, 1975.

MARVIN M. FOOKS,  
Acting Director, Office of  
Trade Adjustment Assistance.

[FR Doc.75-28863 Filed 10-24-75; 8:45 am]

#### INTERSTATE COMMERCE COMMISSION

#### IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

#### Elimination of Gateway Applications

OCTOBER 22, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air



and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of *verified statements* in opposition with the Interstate Commerce Commission on or before November 28, 1975. (This procedure is outlined in the Commission's report and order in *Gateway Elimination*, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 113855 (Sub-No. 328G), filed September 12, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, fittings, and accessories* for such pipe (except oil field pipe as described in *Mercer Extension—Oil Field Commodities* 74 M.C.C. 459), restricted to the transportation of so-called twilight zone commodities as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer* 64 M.C.C. 229. (A) from points in Wisconsin on, east, and north of a line beginning along U.S. Highway 53 at the Minnesota-Wisconsin State line, thence along U.S. Highway 53 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Wisconsin-Illinois State line, to points in Arkansas on and south of U.S. Highway 70. The purpose of this filing is to eliminate the gateways of Elgin, Ill., Terre Haute, Ind., and Springfield, Ill. (B) From points in Wisconsin on and east of a line beginning at the Michigan-Wisconsin State line along U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 151, thence along U.S. Highway 151 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Wisconsin-Illinois State line, to points in Texas and New Mexico. The purpose of this filing is to eliminate the gateways of Elgin, Ill., Terre Haute, Ind., and Springfield, Ill.

(C) From points in Lake, McHenry, Kane, and Dupage Counties, Ill., to points in Arkansas on, east, and north of a line beginning at the intersection of U.S. Highway 71 and the Missouri-Arkansas State line, thence along U.S. Highway 71 to the intersection of U.S. Highway 71 and Interstate Highway 40, thence along Interstate Highway 40 to Little Rock, Ark., thence southwesterly along U.S. Highway 65 to the Arkansas-Louisiana State line. The purpose of this filing is

to eliminate the gateways of Elgin, Ill., Terre Haute, Ind., and Springfield, Ill. (D) From points in Lake, McHenry, Kane, and Dupage Counties, Ill., and the Chicago, Ill. Commercial Zone, to points in Oklahoma on, west, and south of a line beginning at the Oklahoma-Kansas State line on U.S. Highway 177, thence along U.S. Highway 177 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Oklahoma-Arkansas State line. The purpose of this filing is to eliminate the gateways of Elgin, Ill., Terre Haute, Ind., and Springfield, Ill. (E) From points in Illinois on and east of U.S. Highway 51 and on and north of U.S. Highway 30, to points in Texas and New Mexico. The purpose of this filing is to eliminate the gateways of Elgin, Ill., Terre Haute, Ind., and Springfield, Ill. (2) *tractors* (not including truck tractors), *scrapers*, *motor graders*, *wagons*, *engines*, *generators*, *engines and generators combined*, *welders*, *road-rollers*, *compactors* and *lift trucks*, and *attachments and accessories* used in the construction and maintenance of highways, from points in Illinois on and north of Illinois Highway 9, to points in Oregon, Washington, Idaho, and Montana. The purpose of this filing is to eliminate the gateway of Milwaukee, Wis.

(3) *Such heat exchangers or equalizers for gases or liquids*, *machinery and equipment* for washing, heating, cooling, conditioning, humidifying, dehumidifying, and moving of gases or liquids and *parts, attachments, and accessories*, for use in the installation and operation of the commodities specified above, the transportation of which, because of their size or weight, require the use of special equipment, and *related machinery, parts and related contractors' materials and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment. (A) from points in Iowa on and north of U.S. Highway 20 and on and east of U.S. Highway 65, to points in Arizona. The purpose of this filing is to eliminate the gateway of La Crosse, Wis. (B) From points in Illinois on and north of U.S. Highway 6, to points in Arizona. The purpose of this filing is to eliminate the gateway of La Crosse, Wis. (4) (1) *Self-propelled vehicles* (except highway automobiles, trucks, buses, golf buggies, and commercial adaptations thereof, motorcycles and motor scooters); (2) *cranes and hoisting equipment*; (3) *attachments* for the commodities specified in (1) and (2) above; and (4) *parts* of the commodities specified in (1), (2), and (3) above when moving in mixed loads with any of said commodities, the transportation of which, because of their size or weight require the use of special equipment, and (5) *self-propelled articles* described in (1) and (2) above, not requiring special equipment for their transportation, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities transported on trailers), from points in Wisconsin, to points in Arizona. The purpose of this

filing is to eliminate the gateway of Schofield, Wis.

(5) *Highway construction and maintenance tractors* (not including truck tractors), *scrapers*, *motor graders*, *wagons*, *engines* (except aircraft and missile engines, generators, engines and generators combined, welders, road-rollers, compactors, and lift trucks, and *attachments* for the above-named commodities, when moving therewith and separately. (A) From points in Wisconsin on, South, and east of a line beginning at the Wisconsin-Illinois State line, extending along Wisconsin Highway 78 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Wisconsin Highway 33, thence along Wisconsin Highway 33 to Lake Michigan, to points in Utah, Oregon, Washington, Idaho, and Montana. The purpose of this filing is to eliminate the gateway of Elgin, Ill. (B) From points in that part of Wisconsin south of a line beginning at LaCrosse, Wis., and extending along U.S. Highway 16 to Wisconsin Dells, Wis., thence along Wisconsin Highway 23 to Sheboygan, Wis., including points on the indicated portions of the highways specified, to points in Arizona, California, and Nevada. The purpose of this filing is to eliminate the gateway of Peoria, Ill. (C) From points in Illinois on and north of Illinois Highway 9, to points in Arizona, Nevada, and California. The purpose of this filing is to eliminate the gateway of Milwaukee, Wis. (6) *tractors and stationary engines and attachments and parts* thereof, when moving incidental to and in the same vehicle with tractors and stationary engines (not including tractors with vehicle beds, bed frames, or fifth wheels), restricted to such of the named commodities as fall within the "twilight zone" as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer*, 64 M.C.C. 229. (A) From points in New York on and east of New York Highway 14, to points in New Mexico. The purpose of this filing is to eliminate the gateways of Scranton, Pa., Elgin, Ill., and Dubuque, Iowa.

(B) From points in New York on and east of U.S. Highway 15, to points in Arizona. The purpose of this filing is to eliminate the gateways of Scranton, Pa., Elgin, Ill., and Dubuque, Iowa. (C) From points in Connecticut, Massachusetts, and Rhode Island, to points in New Mexico and Arizona. The purpose of this filing is to eliminate the gateways of Scranton, Pa., Elgin, Ill., and Dubuque, Iowa. (D) From points in New Jersey, to points in New Mexico. The purpose of this filing is to eliminate the gateways of Allentown, Pa., Elgin, Ill., and Dubuque, Iowa. (E) From points in Maryland (except points in Garrett, Allegany, and Washington Counties), to points in New Mexico on, west, and north of U.S. Highway 54. The purpose of this filing is to eliminate the gateways of Allentown, Pa., Elgin, Ill., and Dubuque, Iowa. (F) From points in Delaware, to points in New Mexico. The purpose of this filing is to eliminate the gateways of Allentown, Pa., Elgin, Ill., and Dubuque, Iowa. (G) From points in New Jersey and Delaware, to



points in Arizona. The purpose of this filing is to eliminate the gateways of Allentown, Pa., and Elgin, Ill., and Dubuque, Iowa (H) From points in Maryland (except points in Garrett and Allegany Counties), to points in Arizona. The purpose of this filing is to eliminate the gateways of Allentown, Pa., Elgin, Ill., and Dubuque, Iowa. (I) From points in Virginia, on, north, and east of a line beginning at the Virginia-West Virginia State Line extending along U.S. Highway 33 to junction Interstate Highway 95, thence along Interstate Highway 95, to the Virginia-North Carolina State Line, to points in Arizona. The purpose of this filing is to eliminate the gateways of Allentown, Pa., Elgin, Ill., and Dubuque, Iowa.

(7) *Such heat exchangers or equalizers for gases or liquids, machinery and equipment for washing, heating, cooling, conditioning, humidifying, dehumidifying, and moving of gases or liquids, and parts, attachments and accessories, for use in the installation and operation of the commodities specified above, the transportation of which, because of size or weight, require the use of special equipment, and related machinery, parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment.* (A) from points in Wisconsin, to points in Arizona. The purpose of this filing is to eliminate the gateway of LaCrosse, Wis. (B) From points in Wisconsin (except Burnett, Polk, St. Croix and Pierce Counties), to points in Kansas and Nebraska. The purpose of this filing is to eliminate the gateway of LaCrosse, Wis. (C) From points in Minnesota on, east, and north of a line beginning at Breckenridge, Minn., thence along U.S. Highway 75 to junction Minnesota Highway 9, thence along Minnesota Highway 9 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to the Minnesota-Iowa State Line, to points in Arizona. The purpose of this filing is to eliminate the gateways of points in Minnesota within 25 miles of the Wisconsin State line and LaCrosse, Wis.

(8) (1) *New construction, road-building, earth-moving, excavating, loading, maintenance, logging, and mining machinery and equipment, tractors (not including truck-tractors), and pipelayers and, when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities, generators, internal combustion engines, and generators and engines combined (except aircraft and missile engines), and attachments, accessories, and parts of or for the above-specified equipment and machinery, the transportation of which, because of their size or weight, require the use of special equipment; and (2) self-propelled articles described in (1) above, not requiring special equipment for their transportation, each weighing 15,000 pounds or more and related parts moving in connection*

therewith, (restricted to commodities transported on trailers), from points in Illinois on and north of U.S. Highway 6, to points in Arizona. The purpose of this filing is to eliminate the gateway of Davenport, Iowa. (9) *such heat exchangers or equalizers for gases and liquids, machinery and equipment for washing, heating, cooling, conditioning, humidifying, dehumidifying, and moving of gases or liquids, and parts, attachments, and accessories, for use in the installation and operation of the commodities specified above, the transportation of which, because of size or weight require the use of special equipment, and related machinery, parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, restricted against the transportation of iron and steel articles.* (A) from points in Indiana on and north of U.S. Highway 52, to points in Arizona on, west, and south of a line beginning at the Nevada-Arizona State Line along U.S. Highway 93, thence along U.S. Highway 93 to Phoenix, thence along U.S. Highway 89 to the United States-Mexico International Boundary at Nogales. The purpose of the filing is to eliminate the gateways of Elgin, Ill. and LaCrosse, Wis.

(B) From points in Ohio, to points in Arizona (except points in Navajo, Apache, Graham, and Greenlee Counties and those points in Coconino and Mohave Counties north of the Colorado and Little Colorado Rivers). The purpose of this filing is to eliminate the gateways of Elgin, Ill. and LaCrosse, Wis. (C) From points in Ohio on and north of Ohio Highway 73, to points in Navajo, Apache, and Graham and Greenlee Counties, Ariz., and those points in Coconino, Mohave Counties, Ariz., lying north of the Colorado and Little Colorado Rivers. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and LaCrosse, Wis. (D) From points in West Virginia (except points in McDowell, Mercer, Wyoming, Summers, and Monroe Counties) and Allentown, Hazleton, and Scranton, Pa., to points in Arizona. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and LaCrosse, Wis. (E) From points in Maryland (except points in and west of Frederick County) and the District of Columbia, to points in Arizona on and west of U.S. Highway 89. The purpose of this filing is to eliminate the gateways of Allentown, Pa., Elgin, Ill., and LaCrosse, Wis. (F) From points in Delaware and New Jersey, to points in Arizona. The purpose of this filing is to eliminate the gateways of Allentown, Pa., Elgin, Ill., and LaCrosse, Wis. (G) From points in New York (except points west of New York Highway 14), Connecticut and Massachusetts, to points in Arizona. The purpose of this filing is to eliminate the gateways of Eastern Pennsylvania, Elgin, Ill., and LaCrosse, Wis.

(10) (1) *Agricultural machinery, and implements, other than hand, as described in Section 1(B) of Appendix XII to the report in Descriptions in Motor*

*Carrier Certificates*, 61 M.C.C. 209, and farm tractors the transportation of which, because of size or weight, require the use of special equipment, and (2) *self-propelled articles* described in (1) above not requiring special equipment for their transportation, each weighing 15,000 pounds or more and related machinery and parts moving in connection therewith, (restricted to commodities transported on trailers), (A) from points in Wisconsin, to points in Arizona and New Mexico. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa. (B) From points in Minnesota, to points in Arizona; New Mexico, west and south of a line beginning at New Mexico-Colorado State Line extending along U.S. Highway 285 to junction U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Texas State Line. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa. (C) From points in Minnesota, except points in South and west of a line beginning at Minnesota-South Dakota State Line, extending along U.S. Highway 10 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State Line, to points in New Mexico on, east, and north of a line beginning at the New Mexico-Colorado State Line extending along U.S. Highway 285 to junction U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Texas State Line. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

(11) (1) *Tractors and stationary engines and attachments and parts therefor, when moving incidental to and in the same vehicle with tractors and stationary engines (not including tractors with vehicle beds, bed frames, or fifth wheels), restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in National Automobile Transporters Association v. Rowe Transfer, 64 M.C.C. 229, (2) self-propelled articles, described in (1) above which do not require special equipment for their transportation each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities transported on trailers), (A) from points in Ohio and Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and Mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State Line and extending along U.S. Highway 224 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Prospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, Pa., thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641, (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, and thence along Pennsylvania Highway 997 to the Penn-*



sylvania-Maryland State Line, including points on the indicated portions of the highway specified, and points in West Virginia on and north of U.S. Highway 60, to points in Arizona and New Mexico. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and Dubuque, Iowa.

(B) From points in West Virginia south of U.S. Highway 60, to points in Arizona and points in New Mexico on, west and north of U.S. Highway 54. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and Dubuque, Iowa. (C) From points in Indiana on and north of U.S. Highway 30, to points in New Mexico. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and Dubuque, Iowa. (D) From points in Indiana south of U.S. Highway 30 and on and north of U.S. Highway 150, to points in New Mexico on, west, and north of U.S. Highway 54. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and Dubuque, Iowa. (E) From points in Indiana on and north of U.S. Highway 150, to points in Arizona. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and Dubuque, Iowa. (F) From points in Indiana south of U.S. Highway 150, to points in Yuma and Maricopa Counties, Ariz. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and Dubuque, Iowa.

(G) From points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State Line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State Line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.), and points in Pennsylvania on and east of the above-described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Hoga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa., to points in Arizona and New Mexico. The purpose of this filing is to eliminate the gateways of Ohio, Elgin, Ill., and Dubuque, Iowa. (12) Tractors (not including tractors with vehicle beds, bed frames, or fifth wheels), utility trailers designed for transportation of tractors other than truck-tractors, road construction machinery and equipment, earth moving, excavating, and loading machinery, and parts and attachments for all of the above-specified commodities when transported at the same time and in the same vehicle, the transportation of which, because of their size or weight, require the use of

special equipment, and related machinery, parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and

(2) Self-propelled articles described in (1) above, not requiring special equipment for their transportation, each weighing 15,000 pounds or more and related machinery, tools, parts and supplies moving in connection therewith, restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer*, 64 M.C.C. 229, (A) from points in Minnesota on and east of a line beginning at United States-Canada International Boundary line along U.S. Highway 71 extending along U.S. Highway 71 to junction U.S. Highway 371, thence along U.S. Highway 371 to junction Minnesota Highway 18, thence along Minnesota Highway 18 to junction U.S. Highway 169, thence along Minnesota Highway 169 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Minnesota-Iowa State line, to points in Arizona and points in New Mexico on and south of Interstate Highway 40. The purpose of this filing is to eliminate the gateway of Rock Island, Ill. (B) From points in Wisconsin (except points in Burnett, Polk, St. Croix, Pierce, Pepin, and Buffalo Counties), to points in New Mexico. The purpose of this filing is to eliminate the gateway of Rock Island, Ill. (C) From points in Burnett, Polk, St. Croix, Pierce, Pepin, and Buffalo Counties, Wis., to points in New Mexico (except points in Colfax, Union, Harding, Quay, Curry, and Roosevelt Counties). The purpose of this filing is to eliminate the gateway of Rock Island, Ill.

(D) From points in Iowa on and east of a line beginning at the Minnesota-Iowa State Line extending along U.S. Highway 65 to junction U.S. 18, thence along U.S. Highway 18 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Iowa-Illinois State Line, to points in New Mexico. The purpose of this filing is to eliminate the gateway of Rock Island, Ill. (E) From points in Wisconsin, to points in Arizona. The purpose of this filing is to eliminate the gateway of Rock Island, Ill.

(13) (1) Tractors (not including truck-tractors), scrapers, motor graders, wagons, engines (except aircraft and missile engines), generators, engines, and generators combined, welders, road-rollers, compactors, and lift-trucks, which, because of size or weight require the use of special equipment or special handling (except boats and iron and steel articles), and related machinery parts and related contractors' equipment, materials and supplies when their transportation is incidental to the transportation of commodities which, because of size or weight require the use of special equipment, and (2) self-propelled articles, each weigh-

ing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported in trailers, from points in Delaware, Maryland (except points in Garrett and Allegany Counties), Virginia on, north and east of a line beginning at the West Virginia-Virginia State Line extending along U.S. Highway 33 to junction Interstate Highway 95 at Richmond, Va., thence along Interstate Highway 95 to the Virginia-North Carolina State Line and the District of Columbia, to points in Arizona. The purpose of this filing is to eliminate the gateways of Allentown, Pa., Elgin, Ill., Northern Illinois, and Aurora, Ill.

(14) (1) New construction, roadbuilding, earthmoving, excavating, loading, maintenance, logging, and mining machinery and equipment, tractors (not including truck-tractors), and pipelayers, and, when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities, generators, internal combustion engines, and generators and engines combined (except aircraft and missile engines), and attachments, accessories, and parts of or for the above-specified equipment and machinery, the transportation of which, because of their size or weight, require the use of special equipment, and related machinery, parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and (2) self-propelled articles described in (1) above, not requiring special equipment for their transportation, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith, from points in Minnesota and Wisconsin, to points in Arizona. The purpose of this filing is to eliminate the gateways of points in Minnesota within 25 miles of Minnesota-Iowa, Des Moines, Iowa.

(15) (1) Agricultural machinery and parts and attachments for agricultural machinery, which because of their size or weight require the use of special equipment, and (2) self-propelled agricultural machinery weighing 15,000 pounds or more and related parts and attachments when moving in connection therewith, from points in that portion of Minnesota lying in, east, and north of Koochiching, Itasca, Cass, Morrison, Benton, Sherburne, Hennepin, Scott, Dakota, Goodhue, and Wabasha Counties; and that portion of Wisconsin lying in, west and north of Iron, Price, Taylor, Clark, Eau Claire, and Buffalo Counties, to points in Missouri. The purpose of this filing is to eliminate the gateways of Pepin County, Wis. and points in Minnesota within 25 miles of the Wisconsin State line. (16) Road construction equipment, trailers and semi-trailers, other than house trailers, in initial movements, in truckaway service, from points in that part of Wisconsin south of a line beginning at La Crosse, Wis., and extending along U.S. Highway 16 to Wisconsin



Dells, Wis., thence along Wisconsin Highway 23 to Sheboygan, Wis., including points on the indicated portions of the highways specified, to points in Washington, Oregon, California, Idaho, Nevada, and Utah. The purpose of this filing is to eliminate the gateway of Keweenaw, Ill. (17) *Equipment* used in the construction and maintenance of highways, from points in Wisconsin on and south of a line beginning at LaCrosse, Wis., and extending along U.S. Highway 16 to Wisconsin Dells, Wis., thence along Wisconsin Highway 23 to Sheboygan, Wis., to points in California. The purpose of this filing is to eliminate the gateways of Davenport, Iowa and Sioux Falls, S. Dak. Dak.

(18) *Materials, equipment, and supplies* used in the construction and maintenance of highways, the transportation of which, because of their size or weight, require the use of special equipment, and *related machinery, parts and related contractors' materials and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment, and (2) *self-propelled equipment* used in the construction and maintenance of highways, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith, (restricted to commodities transported on trailers), (A) between points in Wisconsin (except points in, east and south of Green, Dane, Columbia, Dodge, Washington, and Ozaukee Counties), on the one hand, and, on the other, points in Illinois south of U.S. Highway 6 and on, north and west of a line beginning at Quincy, Ill., and extending along Illinois Highway 104 to junction U.S. Highway 66, thence northward along U.S. Highway 66 to junction U.S. Highway 51, thence northward along U.S. Highway 51 to U.S. Highway 6. The purpose of this filing is to eliminate the gateway of Davenport, Iowa.

(B) Between points in Wisconsin, in, east, and south of Green, Dane, Columbia, Dodge, Washington, and Ozaukee Counties, on the one hand, and, on the other, points in that part of Illinois bounded by U.S. Highway 6 on the north, Illinois Highway 78 on the east, and Illinois Highway 104 on the south. The purpose of this filing is to eliminate the gateway of Davenport, Iowa. (C) Between points in Wisconsin, on the one hand, and, on the other, points in Illinois on and north of Illinois Highway 9. The purpose of this filing is to eliminate the gateway of Davenport, Iowa.

No. MC 113855 (Sub-No. 329G), filed September 12, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Pipe*, of concrete and plastic construction, and *fittings and accessories* of such pipe (except oil field pipe as described in *Mercer Extension*—

*Oil Field Commodities*, 74 M.C.C. 459) restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer*, 64 M.C.C. 229; (A) from points in Wisconsin on and east of U.S. Highway 63 and on and west of U.S. Highway 51, to points in Missouri on and south of U.S. Highway 54. The purpose of this filing is to eliminate the gateways of Davenport, Iowa and Springfield, Ill. (B) From points in Wisconsin east of U.S. Highway 51, to points in Missouri on and south of U.S. Highway 24. The purpose of this filing is to eliminate the gateways of Davenport, Iowa and Springfield, Ill. (C) From points in Wisconsin, to points in Arkansas. The purpose of this filing is to eliminate the gateways of Davenport, Iowa and Springfield, Ill.

(D) From points in Wisconsin on and east of U.S. Highway 63, to points in Oklahoma, Texas, New Mexico, and Arizona. The purpose of this filing is to eliminate the gateways of Davenport, Iowa and Springfield, Ill. (E) From points in Minnesota on and east of U.S. Highway 71, to points in Arkansas on and east of Arkansas Highway 7. The purpose of this filing is to eliminate the gateways of points in Minnesota within 25 miles of the Wisconsin-Minnesota State line or the Iowa-Minnesota State line, Davenport, Iowa, and Springfield, Ill. (F) From points in Illinois on and north of U.S. Highway 6, to points in Texas, Oklahoma, New Mexico, and Arizona. The purpose of this filing is to eliminate the gateways of Davenport, Iowa and Springfield, Ill. (II) (1) *Agricultural machinery, and implements*, other than hand, as described in Section 1(B) of Appendix XII to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209, and *farm tractors*, the transportation of which, because of their size or weight, require the use of special equipment, and (2) *self-propelled articles* described in (1) above not requiring special equipment for their transportation, each weighing 15,000 pounds or more (restricted to commodities transported on trailers), (A) from points in Illinois on and north of U.S. Highway 6 and the following portion of Iowa: Points in that part of Iowa on and north of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 6 to junction unnumbered highway (formerly portion of U.S. Highway 6), thence along unnumbered highway through Victor and Brooklyn, Iowa to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 90 (formerly portion of U.S. Highway 6), thence along unnumbered highway through Colfax, Iowa to Des Moines, Iowa, and on and east of U.S. Highway 65 from Des Moines, to the Iowa-Minnesota State line, to points in Arizona and New Mexico. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

(B) From points in Illinois south of U.S. Highway 6 and on and north of a line between points in that part of Illinois on, north, and west of a line beginning at Quincy, Ill., and extending along Illinois Highway 104 to junction

U.S. Highway 66, thence northward along U.S. Highway 66 to junction Illinois Highway 53 (formerly Alternate U.S. Highway 66), at or near Gardner, Ill., thence along Illinois Highway 53 to junction U.S. Highway 66 at a point approximately 10 miles northeast of Plainfield, Ill., and thence along U.S. Highway 66 to Chicago, Ill., to points in Arizona. (C) From points in the territory described in (B) above (except points west of U.S. Highway 67), to points in New Mexico. The purpose of this filing is to eliminate the gateways of Davenport, Iowa and Des Moines, Iowa. (III) (1) *Tractors and stationary engines and attachments and parts* therefor, when moving incidental to and in the same vehicle with tractors and stationary engines (not including tractors with vehicle beds, bed frames, or fifth wheels), restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer*, 64 M.C.C. 229 and (2) *self-propelled articles*, described in (1) above which do not require special equipment for their transportation, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities transported on trailers), (I) (A) from points in that part of Illinois bounded on the north by U.S. Highway 6 and on the south and east by a line beginning at the Iowa-Illinois State line extending along Illinois Highway 9 to junction U.S. Highway 66, thence northward along U.S. Highway 66 to junction Illinois Highway 53 (formerly Alternate U.S. Highway 66) at or near Gardner, Ill., thence 10 miles northeast of Plainfield, Ill., and thence along U.S. Highway 66 to Chicago, Ill. The purpose of this filing is to eliminate the gateways of Davenport, Iowa and Waterloo or Dubuque, Iowa.

(B) From points in Illinois on and north of U.S. Highway 6, points in that part of Iowa on and north of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 6 to junction unnumbered highway (formerly portion of U.S. Highway 6), thence along unnumbered highway through Victor and Brooklyn, Iowa, to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 90 (formerly portion of U.S. Highway 6) thence along Iowa Highway 90 through Colfax, Iowa, to Des Moines, Iowa, and on and east of U.S. Highway 65 from Des Moines, to the Iowa-Minnesota State line and points in Wisconsin. The purpose of this filing is to eliminate the gateways of Waterloo or Dubuque, Iowa. (C) From points in Minnesota on, north, and east of a line beginning at the North Dakota-Minnesota State line along Minnesota Highway 55, thence along Minnesota Highway 55 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to the Minnesota-Iowa State line, to points in Arizona and New Mexico. The purpose of this filing is to eliminate the gateways of points in Minnesota within 25 miles of the Iowa-Minnesota State line and Du-



buque or Waterloo, Iowa. (II) From points in Minnesota south and west of a line beginning at the North Dakota-Minnesota State line along Minnesota Highway 55, thence along Minnesota Highway 55 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to the Minnesota-Iowa State line, to points in Arizona. The purpose of this filing is to eliminate the gateways of points in Minnesota within 25 miles of the Iowa-Minnesota State line and Dubuque or Waterloo, Iowa.

(IV) (1) *Tractors, front end loaders, lift trucks, self-propelled agricultural machinery, agricultural hoisting equipment;* (2) *attachments for the commodities specified in (1) above; and (3) parts of the commodities specified in (1) and (2) above when moving in mixed loads with any of said commodities, the transportation of which, because of their size or weight require the use of special equipment and self-propelled articles described in (1) above, not requiring the use of special equipment, each weighing 15,000 pounds or more, from that part of Wisconsin described as follows: beginning at the Minnesota-Wisconsin State line along U.S. Highway 53, thence along U.S. Highway 53 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Interstate Highway 90, thence along Interstate Highway 90 to the Wisconsin-Illinois State line, to points in New Mexico. The purpose of this filing is to eliminate the gateway of Schofield, Wis. (V) *Tractors, earth-moving, excavating, loading and maintenance machinery and equipment, and, when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities, attachments and part of or for the above-specified equipment and machinery, when also equipment used in the construction and maintenance of highways, from points in Illinois south of U.S. Highway 6 and on, east, and north of a line beginning at U.S. Highway 6 at the junction of Illinois Highway 78, thence along Illinois Highway 78 to junction Illinois Highway 9, thence along Illinois Highway 9 to the Illinois-Indiana State line, to points in Nevada. The purpose of this filing is to eliminate the gateways of Milwaukee or Waukesha Counties, Wis.**

(VI) (1) *Irrigation sprinklers and winches designed for use with irrigation sprinklers, (2) stump-cutting, cable-laying, trench-digging, trench-backfilling, and tree-moving equipment (3) parts and attachments for the commodities named in (1) and (2) above and (4) trailers designed for the transportation of commodities named in (1) and (2) above, (5) hay balers and parts the transportation of which, because of their size or weight require the use of special equipment and (6) self-propelled articles, described in (2) and (5) above which do not require special equipment for their transportation, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities transported on trailers), (A) from points in Minnesota within 25*

miles of the Wisconsin-Minnesota State line and the Iowa-Minnesota State line lying east of U.S. Highway 169, to points in Maine, Vermont, New Hampshire, South Carolina, Tennessee west of a line beginning at the Kentucky-Tennessee State line along U.S. Highway 25W, thence along U.S. Highway 25W to junction Interstate Highway 40, thence along Interstate Highway 40 to the North Carolina-Tennessee State line, Arkansas north of Interstate Highway 40 and Georgia (except from points in Minnesota east of U.S. Highway 63 to points in Tennessee, South Carolina, and points in Georgia north of Interstate Highway 20). The purpose of this filing is to eliminate the gateways of Minneapolis, Minn., or points in Minnesota within 25 miles of the Iowa-Minnesota State line on and west of U.S. Highway 169. (B) From points in Minnesota within 25 miles of the Wisconsin-Minnesota State line and the Iowa-Minnesota State line east of U.S. Highway 63, the following described portion of Wisconsin: Beginning at the Wisconsin-Michigan State line along U.S. Highway 51 thence along U.S. Highway 51 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Wisconsin Highway 80, thence along Wisconsin Highway 80 to junction U.S. Highway 16, thence along U.S. Highway 16 to the Wisconsin-Minnesota State line, and the following described portion of Iowa: that portion of Iowa bounded on the west by U.S. Highway 65, on the south by U.S. Highway 20, and on the east by U.S. Highway 63 including all points on the named highways, to points in Florida and Louisiana. The purpose of this filing is to eliminate the gateways of Lake City, Minn., or points in Minnesota within 25 miles of the Iowa-Minnesota State line on and west of U.S. Highway 63.

(C) From points in Minnesota within 25 miles of the Wisconsin-Minnesota State line south of a line beginning at Bloomington, Minn., thence along Interstate Highway 494 to junction Minnesota Highway 55, thence along Minnesota Highway 55 to Hastings, Minn., and points in Minnesota within 25 miles of the Minnesota-Iowa State line east of Interstate Highway 35, to points in Alabama, Mississippi, Arkansas, on and south of Interstate Highway 40, and Texas on and south of U.S. Highway 80. The purpose of this filing is to eliminate the gateways of Minneapolis, Minn., or Hastings, Minn., or points in Minnesota within 25 miles of the Iowa-Minnesota State line, on and west of Interstate Highway 35. (D) From points in that part of Wisconsin on, west, and north of a line beginning at Racine, Wis., thence along Wisconsin Highway 38 to junction Wisconsin Highway 100, thence along Wisconsin Highway 100 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 151, thence along U.S. Highway 151 to the Wisconsin-Illinois State line and that part of Iowa on, north, and west of a line beginning at Dubuque, Iowa, thence along U.S. Highway 20 to junction U.S. Highway 65, thence along U.S. Highway 65 to

the Iowa-Minnesota State line, to points in Texas on, south, and west of a line beginning at Galveston, Tex., thence along Interstate Highway 45 to Dallas, Tex., thence along U.S. Highway 80 to El Paso, Tex. The purpose of this filing is to eliminate the gateways of Minneapolis, Minn., or Hastings, Minn., or points in Minnesota within 25 miles of the Iowa-Minnesota State line on and west of Interstate Highway 35.

(VII) *Rollers, compactors, asphalt pavers, loading, and grading equipment and truck hitches for asphalt pavers, when also equipment used in the construction and maintenance of highways, restricted against any service to pipelines, pipeline rights-of-way, pump stations, or pipeline construction projects along such rights-of-way other than in California, from points in Illinois south of U.S. Highway 6 and on north of Illinois Highway 9, to points in California in and north of Santa Cruz, Santa Clara, Stanislaus, Calaveras, and Alpine Counties, Calif. The purpose of this filing is to eliminate the gateways of Milwaukee or Waukesha Counties, Wis. (VIII) (1) *New construction, roadbuilding, earth-moving, excavating, loading, maintenance, logging, and mining machinery and equipment, tractors (not including truck-tractors), and pipelayers and, when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities, generators, internal combustion engines and generators and engines combined (except aircraft and missile engines), and attachments, accessories, and parts of or from the above-specified equipment and machinery, the transportation of which, because of their size or weight, require the use of special equipment, and**

(2) *Self-propelled articles described in (1) above, not requiring special equipment for their transportation, each weighing 15,000 pounds or more and related machinery and parts moving in connection therewith, (restricted to commodities transported on trailers, and further restricted against the transportation of iron and steel articles), (A) from points in that portion of Pennsylvania described as follows: points in Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and mines in that part of Pennsylvania, south and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 224 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Prospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, Pa., thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641, (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, and thence along Pennsylvania Highway*



997 to the Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified, to points in Arizona. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and Moline, Ill.

(B) From points in that portion of Pennsylvania described as follows: between points on Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15) thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, Pa.), to points in Arizona. The purpose of this filing is to eliminate the gateways of Ohio, Elgin, Ill., and Moline, Ill.

(IX) *Loaders, conveyors, screens, grizzlies and when moving in combination loads on the same vehicle from the same consignor or consignors of the above-specified commodities, attachments, accessories and parts of or for the above-specified equipment and machinery, when also equipment used in the construction and maintenance of highways, from points in that part of Wisconsin south of a line beginning at La Crosse, Wis., and extending along U.S. Highway 16 to Wisconsin Dells, Wis., thence along Wisconsin Highway 23 to Sheboygan, Wis., including points on the indicated portions of the highways specified, to points in Arizona and Nevada. The purpose of this filing is to eliminate the gateway of Moline, Ill.*

(X) (1) *Road construction equipment and machinery and lift trucks, the transportation of which, because of their size and weight require the use of special equipment, (2) self-propelled articles, described in (1) above which do not require special equipment for their transportation, each weighing 15,000 pounds or more restricted to commodities transported on trailers, (a) from points in Iowa on, east, and north of a line beginning at the Iowa-Minnesota State line on U.S. Highway 65, thence along U.S. Highway 65 to Des Moines, Iowa, thence along U.S. Highway 6 to junction U.S. Highway 218, thence along U.S. Highway 218 to Cedar Rapids, Iowa, thence along U.S. Highway 151 to the Iowa-Illinois State line, to points in Maine, Vermont, and New Hampshire and the upper pen-*

*ninsula of Michigan; (B) from points in Iowa within an area bounded by a line beginning at the Iowa-Minnesota State line on U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 18, thence along U.S. Highway 18 to the Iowa-Wisconsin State line, to points in New York, Virginia, North Carolina, South Carolina, Georgia, and Florida; (3) road construction machinery and equipment as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 lift-trucks, in flat bed trailers only, restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer*, 64 M.C.C. 229, (C) from the destination points in (A) above, to the origin points in (A) above; (D) from the destination points in (B) above, to the origin points in (B) above. The purpose of this filing is to eliminate the gateway of points in Minnesota within 25 miles of the Minnesota-Wisconsin and Minnesota-Iowa State lines.*

(XI) (1) *Road construction equipment and machinery and lift trucks, the transportation of which, because of size and weight require the use of special equipment; (2) self-propelled articles, described in (1) above which do not require special equipment for their transportation, each weighing 15,000 pounds or more, (restricted to commodities transported on trailers), (A) from points in Wisconsin in, north, and west of Grant, Richland, Vernon, Juneau, Adams, Waushara, Waupaca, Outagamie, and Brown Counties, to points in Maine, Vermont, and New Hampshire; (B) from points in Wisconsin on, west, and north of a line beginning on the Wisconsin-Michigan State line at Hurley, Wis., thence along U.S. Highway 51 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Wisconsin Highway 78, thence along Wisconsin Highway 78 to junction U.S. Highway 18, thence along U.S. Highway 18 to the Iowa-Wisconsin State line, to points in Tennessee, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, New York, Virginia, and North Carolina; (3) road construction machinery and equipment, as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and lift trucks in flat bed trailers only, restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer*, 64 M.C.C. 229; (C) from points in Maine, Vermont, and New Hampshire, to points in Wisconsin in, north, and west of Grant, Richland, Vernon, Juneau, Adams, Waushara, Waupaca, Outagamie, and Brown Counties; (D) from points in Tennessee, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, New York, Virginia, and North Carolina, to points in*

*Wisconsin on, west, and north of a line beginning at the Wisconsin-Michigan State line at Hurley, Wis., thence along U.S. Highway 51 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Wisconsin Highway 78, thence along U.S. Highway 78 to junction U.S. Highway 18, thence along U.S. Highway 18 to the Iowa-Wisconsin State line. The purpose of this filing is to eliminate the gateway of points in Minnesota within 25 miles of the Minnesota-Wisconsin State line.*

(XII) (1) *Road construction equipment and machinery and lift trucks, the transportation of which, because of their size and weight require the use of special equipment; (2) self-propelled articles, described in (1) above which do not require special equipment for their transportation, each weighing 15,000 pounds or more, (restricted to commodities transported on trailers); (A) from points in Wisconsin on and north of a line beginning at La Crosse, Wis., extending along U.S. Highway 16 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Wisconsin Highway 21, thence along Wisconsin Highway 21 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Wisconsin Highway 23, thence along Wisconsin Highway 23 to Sheboygan, Wis., and points in Minnesota within 25 miles of the Wisconsin-Minnesota border on and north of Interstate Highway 90, to points in Oklahoma; (B) from points south of the line in (A) above and on, north, and west of a line beginning at the Iowa-Wisconsin State line, extending along U.S. Highway 18 to junction Wisconsin Highway 60, thence along Wisconsin Highway 60 to junction U.S. Highway 141, thence along U.S. Highway 141 to Port Washington, Wis., to points in Oklahoma on and west of Highway 35; (3) road construction machinery and equipment, as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and lift trucks in flat bed trailers only, restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in *National Automobile Transporters Association v. Rowe Transfer*, 64 M.C.C. 229; (C) from points in Oklahoma, to points in Wisconsin on and north of the line described in (A) above; (D) from points in Oklahoma on and west of Interstate Highway 35, to points in that portion of Wisconsin described in (B) above. The purpose of this filing is to eliminate the gateways of points in the Minneapolis-St. Paul Commercial Zone and points within 15 miles thereof within 25 miles of the Minnesota-Wisconsin State line.*

(XIII) (1) *Road construction machinery and equipment, as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and lift trucks, in flat bed trailers only, restricted to the transportation of so-called "twilight zone" commodities as described by the Commission in Na-*



tional Automobile Transporters Association v. Rowe Transfer, 64 M.C.C. 229; (A) from points in Arizona to points in: Wisconsin, Illinois on and north of U.S. Highway 6; Indiana on and north of U.S. Highway 30; Ohio on and north of a line beginning at the Indiana-Ohio State line along U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 308, thence along U.S. Highway 308 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-West Virginia State line; the following described areas in Pennsylvania: Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 224 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Prospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, Pa., thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641 (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, and thence along Pennsylvania Highway 997 to the Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified, and points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion of U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.), and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Toga, Bradford, Lycoming, Sullivan, Union, Snyder, North Cumberland, Montour, and Columbia Counties, Pa., West Virginia on and north of U.S. Highway 33 (except from points in Apache, Navajo, and Greenlee Counties, Ariz.); New York in and east of Toga, Tompkins, and Cayuga Counties; Virginia in and east of Southampton, Sussex, Prince George, Charles City, New Kent, King William, King and Queen, Essex, and King George Counties (except from points in Cochise, Graham, Greenlee, Apache, and Navajo Counties, Ariz.);

and points in Connecticut, Rhode Island, Massachusetts, Delaware, New Jersey, Maryland on and east of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 140 to junction Maryland Highway 97, thence along Maryland Highway 97 to the District of Columbia; points in Minnesota within 25 miles of the Minnesota-Wisconsin State line and of the Minnesota-Iowa State line; Iowa on north and east of a line beginning at the Iowa-Illinois State line along U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Iowa-Minnesota State line.

(B) From points in Arizona (except points in Navajo, Apache, Greenlee, Graham, and Cochise Counties), to points in Iowa south of U.S. Highway 20 and on, east, and north of a line beginning at the junction of U.S. Highway 20 and Iowa Highway 150, thence along Iowa Highway 150 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Iowa-Illinois State line, and points in Illinois on and north of U.S. Highway 6; (1) *road construction equipment and machinery and lift trucks*, the transportation of which, because of their size and weight require the use of special equipment; (2) *self-propelled articles*, described in (1) above which do not require special equipment for their transportation, each weighing 15,000 pounds or more (restricted to commodities transported on trailers); (C) from the destination points in (A) above, to points in Arizona, and (except the same Arizona counties where excepted as origins) (D) from the destination points in (B) above, to points in Arizona (except points in Navajo, Apache, Greenlee, Graham, and Cochise Counties). The purpose of this filing is to eliminate the gateways of Minneapolis, St. Paul, Minn. Commercial Zone and points within 15 miles thereof and Elgin, Ill.

No. MC 113855 (Sub-No. 330G), filed September 19, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported in trailers), between Minot, N. Dak., those in that part of North Dakota south of a line beginning at the Montana-North Dakota State line and extending along U.S. Highway 2 to Lakota, N. Dak., thence along North Dakota Highway 1 to the United States-Canada Boundary line, not including points on the indicated portions of the highways specified other than Minot, N.

Dak., on the one hand, and, on the other, points in Wisconsin. The purpose of this filing is to eliminate the gateway of points in Minnesota within 25 miles of the Minnesota-Wisconsin State line.

(2) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported in trailers), between points in that part of North Dakota on and north of a line beginning at the Montana-North Dakota State line and extending along U.S. Highway 2 to Lakota, N. Dak., thence along North Dakota Highway 1 to the United States-Canada Boundary line (except Minot, N. Dak.) on the one hand, and, on the other, points in that part of Iowa on and north of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 6 to junction unnumbered highway (formerly portion of U.S. Highway 6), thence along unnumbered highway through Victor and Brooklyn, Iowa to junction U.S. Highway 6 thence along U.S. Highway 6 to junction Iowa Highway 90 (formerly portion of U.S. Highway 6), thence along Iowa Highway 90 through Colfax, Iowa to Des Moines, Iowa, and on and east of U.S. Highway 65 from Des Moines, to the Iowa-Minnesota State line. The purpose of this filing is to eliminate the gateway of points in Minnesota within 50 miles of Sioux Falls, S. Dak., and within 25 miles of the Iowa-Minnesota State line.

(3) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported in trailers), between points in Colorado, on the one hand, and, on the other, points in Illinois on and north of U.S. Highway 6. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

(4) *Commodities* the transportation of which, because of their size or weight require the use of special equipment (except boats and iron and steel articles), and *related machinery, parts, and related contractors' materials and supplies*, when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities transported on trailers), (a) between points in Colorado, on the one hand, and, on the other, points in Indiana south and west of Interstate Highway 74 and on, north, and east of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 36 to the junction of U.S. Highway 231, thence along U.S. Highway 231 in a southerly direction to the junction of Indiana State



Highway 46, thence along Indiana Highway 46 to the junction of Indiana Highway 37, thence along U.S. Highway 37 to the junction of U.S. Highway 150, thence along U.S. Highway 150 to the Indiana-Kentucky State line and (b) between points in Colorado on and north of a line beginning along U.S. Highway 6 along the Utah-Colorado State line, thence along U.S. Highway 6 to junction Colorado Highway 93 at or near Golden, Colo., thence along Colorado Highway 93 to Boulder, Colo., thence along Colorado Highway 7 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Colorado-Nebraska State line, on the one hand, and, on the other, points in Indiana south and west of the line described in (a) above. The purpose of this filing is to eliminate the gateways of Elgin, Ill., and Davenport, Iowa.

(5) *Commodities*, the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported in trailers), (a) between points in Colorado, on the one hand, and, on the other, points in Kentucky on and east of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 27 to junction U.S. Highway 421 at Lexington, Ky., thence along U.S. Highway 421 to the Kentucky-Indiana State line (except points in and east of Mason, Fleming, Bath, Menifee, Wolfe, Breathitt, Knott, and Letcher Counties, Ky.) and (b) between points in Kentucky on and east of Kentucky Highway 61 and west of a line beginning at the Kentucky-Tennessee State line and extending in a northerly direction along U.S. Highway 27 to junction U.S. Highway 421 at Lexington, Ky., thence along U.S. Highway 421 to the Kentucky-Indiana State line, on the one hand, and, on the other, points in Colorado west and south of a line beginning at the Utah-Colorado State line extending along U.S. Highway 6 to junction U.S. Highway 285 at or near Denver, Colo., thence along U.S. Highway 285 to the Colorado-New Mexico border (including points on U.S. Highway 285 but excluding points on U.S. Highway 6). The purpose of this filing is to eliminate the gateways of Elgin, Ill., and Davenport, Iowa.

(6) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and *related machinery, parts, and related contractors' materials and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities transported on trailers), between points in Wisconsin, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

(7) *Commodities* the transportation of which, because of their size or weight require the use of special equipment (except boats and iron and steel articles) and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported in trailers), (a) between points in Indiana on and east of a line beginning at the intersection of Interstate Highway 90 and the Illinois-Indiana State line, thence southeasterly along junction Interstate Highway 65, thence southeasterly along Interstate Highway 65 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction Indiana Highway 7, thence southeasterly along Indiana Highway 7 to the Indiana-Kentucky State line at or near Madison, Ind., on the one hand, and, on the other, points in Nebraska south of U.S. Highway 6 and east of U.S. Highway 81, (b) between points in Indiana south and west of the line in (a) above, on the one hand, and, on the other, points in Nebraska east and north of a line beginning at the Nebraska-Iowa State line along U.S. Highway 77, thence southerly along U.S. Highway 77 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to the Nebraska-Iowa State line (including points on Nebraska Highway 92 but excluding points on U.S. Highway 77) and (c) between points in Indiana within an area bounded on the north by Interstate Highway 90 on the east by Interstate Highway 65 and on the south by Interstate Highway 70 (not including points on the indicated highways other than those on Interstate Highway 70 west of Indianapolis, Ind.), on the one hand, and, on the other, points in Nebraska within an area beginning at Omaha, Nebr., thence along Nebraska Highway 92 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to junction Interstate Highway 80, thence along Interstate Highway 80 to the point of beginning (not including Omaha, Nebr., or points on the indicated highways other than those points on Interstate Highway 80). The purpose of this filing is to eliminate the gateways of Elgin, Ill. north of U.S. Highway 50 or Cook or Lake Counties, Ill.

(d) Between points in Kentucky on and east of a line beginning at the Indiana-Kentucky State line extending along U.S. Highway 50 to junction U.S. Highway 27, thence along U.S. Highway 27 to the Kentucky-Tennessee State line, on the one hand, and, on the other, points in Nebraska and (e) between points in Kentucky on and east of a line beginning at the Indiana-Kentucky State line extending along U.S. Highway 231 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Tennessee State line and west of a line beginning at the Indiana-Kentucky State line extending along U.S. Highway 150 to junction U.S. High-

way 27, thence along U.S. Highway 27 to the Kentucky-Tennessee State line, on the one hand, and, on the other, points in Nebraska on and north of a line beginning at the Iowa-Nebraska State line and extending along Nebraska Highway 92 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 281 at or near Grand Island, Nebr., thence along U.S. Highway 281 to junction Interstate Highway 80, thence along Interstate Highway 80S, thence along Interstate Highway 80S to the Nebraska-Colorado State line. The purpose of this filing is to eliminate the gateways of Elgin, Ill. north of U.S. Highway 50 or Cook or Lake Counties, Ill.

(8) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported in trailers), between points in Illinois on and north of a line beginning at the Indiana-Illinois State line along U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Iowa State line, on the one hand, and, on the other, points in Nebraska on and east of a line beginning at the Iowa-Nebraska State line and extending along U.S. Highway 77 to junction Nebraska Highway 91, thence along Nebraska Highway 91 to junction Nebraska Highway 14, thence along Nebraska Highway 14 to the Nebraska-Kansas State line. The purpose of this filing is to eliminate the gateway of points in Wisconsin.

(9) *Commodities* the transportation of which, because of their size or weight require the use of special equipment (except boats and iron and steel articles) and *related machinery, parts, and related contractors' materials and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) *self-propelled articles*, each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities transported on trailers), (a) between points in Indiana south of U.S. Highway 30 and on, north, and east of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 24 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line, on the one hand, and, on the other, points in Kansas on and west of a line beginning at the Nebraska-Kansas State line extending along U.S. Highway 281 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 283, thence along U.S. Highway 283 to the Kansas-Oklahoma border. The purpose of this filing



to eliminate the gateways of Elgin, Ill., and Davenport, Iowa.

(b) Between points in Indiana on and north of U.S. Highway 30, on the one hand, and, on the other, points in Kansas east and south of a line beginning on U.S. Highway 281 at the Kansas-Nebraska State line, thence along U.S. Highway 281 to junction Kansas Highway 61, thence along Kansas Highway 61 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Colorado State line and on and west of U.S. Highway 77. The purpose of this filing is to eliminate the gateways of Elgin, Ill. and Dubuque, Iowa.

(c) Between points in West Virginia, on the one hand, and, on the other, points in Kansas bounded on the north and west by a line beginning at the Kansas-Oklahoma State line along U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 56, thence along U.S. Highway 56 to junction U.S. Highway 281 and on to the east by U.S. Highway 281 (including points on the indicated portions of the highways named). The purpose of this filing is to eliminate the gateways of Elgin, Ill., and Davenport, Iowa.

(d) Between points in West Virginia south and east of a line beginning at the West Virginia-Ohio State line along U.S. Highway 250, thence along U.S. Highway 250 to junction U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line, on the one hand, and, on the other, points in Kansas north and west of the line described in (a) above as extended to the Kansas-Nebraska State line along U.S. Highway 281 (except points in Kansas on, north, and west of a line beginning at the Kansas-Nebraska State line, along U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Kansas Highway 96, thence along Kansas Highway 96 to the Kansas-Colorado State line). The purpose of this filing is to eliminate the gateways of Elgin, Ill., and Davenport, Iowa.

(e) Between points in West Virginia on and north of U.S. Highway 33, on the one hand, and, on the other, points in Kansas east of U.S. Highway 281 and on and west of U.S. Highway 77. The purpose of this filing is to eliminate the gateways of Elgin, Ill., and Dubuque, Iowa.

(f) Between points in Ohio south of a line beginning on U.S. Highway 6 at the Indiana-Ohio State line extending in an easterly direction to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 13, thence along U.S. Highway 13 to junction U.S. Highway 224, thence along U.S. Highway 224 to the Ohio-Pennsylvania State line and on and north of U.S. Highway 33, on the one hand, and, on the other, points in Kansas on and west of U.S.

Highway 81 (except points in Kansas, on, west, and north of a line beginning at the Nebraska-Kansas State line extending along U.S. Highway 281 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 283, thence along U.S. Highway 283 to Kansas Highway 96, thence along Kansas Highway 96 to the Kansas-Colorado State line. The purpose of this filing is to eliminate the gateways of Elgin, Ill., and Dubuque, Iowa.

(g) Between points in Ohio south of U.S. Highway 33, on the one hand, and, on the other, that part of Kansas south and west of a line beginning at the Kansas-Colorado State line extending along Kansas Highway 96 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Oklahoma State line (not including points on the indicated highways except points on U.S. Highway 183). The purpose of this filing is to eliminate the gateways of Elgin, Ill., and Davenport, Iowa.

(h) Between points in Ohio south of U.S. Highway 33 and on, north, and east of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 35 to junction U.S. Highway 68, thence along U.S. Highway 68 to Brown County, Ohio, including all points in Brown County, on the one hand, and, on the other, points in Kansas bounded on the east by U.S. Highway 281 and the north and west by a line beginning at the junction of U.S. Highway 281 and Interstate Highway 70 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Oklahoma State line (including points on the described portion of U.S. Highway 281, but excluding points on the other described highways). The purpose of this filing is to eliminate the gateways of Elgin, Ill., and Davenport, Iowa.

(i) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported in trailers), between points in Minnesota on and north of Interstate Highway 94 within 25 miles of the Minnesota-Wisconsin State line, on the one hand, and, on the other, points in Missouri on, west, and south of a line beginning at the Iowa-Missouri Highway Line extending along U.S. Highway 71 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Missouri Highway 13, thence along Missouri Highway 13 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 50 Bypass, thence along U.S. Highway 50 Bypass to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of points in Minnesota on or west of U.S.

Highway 71 within 25 miles of the Minnesota-Iowa State line.

(11) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported in trailers) between points in that part of Illinois on and north of U.S. Highway 6, on the one hand, and, on the other, points in Kansas on and west of U.S. Highway 77. The purpose of this filing is to eliminate the gateway of points in Iowa on and north of U.S. Highway 20 and on and east of U.S. Highway 65.

(12) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported in trailers), (a) between points in Minnesota within 25 miles of the Minnesota-Wisconsin State line on and north of Interstate Highway 94, on the one hand, and, on the other, points in Illinois on and south of a line beginning at Alton, Ill., and extending along Illinois Highway 3 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Illinois Highway 4, thence along Illinois Highway 4 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction U.S. Highway 37, thence along U.S. Highway 37 to junction Illinois Highway 13, thence along Illinois Highway 13 to the Illinois-Kentucky State line and (b) between Minneapolis, Minn., on the one hand, and, on the other, points in Illinois on and south of a line beginning at the Illinois-Indiana State line extending along Interstate Highway 74 to Champaign and Urbana, Ill., thence along Interstate Highway 72 to junction Illinois Highway 10, thence along Illinois Highway 10 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 104, thence along Illinois Highway 104 to the Illinois-Missouri State line at Quincy, Ill., and north of a line beginning at Alton, Ill., and extending along Illinois Highway 3 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Illinois Highway 4, thence along Illinois Highway 4 to junction Illinois Highway 15, thence along Illinois Highway 15 to junction U.S. Highway 37, thence along U.S. Highway 37 to junction Illinois Highway 13, thence along Illinois Highway 13 to the Illinois-Kentucky State line. The purpose of this filing is to eliminate the gateway of points in Minnesota within 25 miles of the Minnesota-Iowa State line on or west of Minnesota Highway 15.

(13) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (re-



stricted to commodities which are transported in trailers), between points in Iowa on, south, east, and north of a line beginning at the Iowa-Wisconsin State line extending along U.S. Highway 20 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Iowa-Illinois State line, on the one hand, and, on the other, points in Kansas east of U.S. Highway 281 and on and west of U.S. Highway 77. The purpose of this filing is to eliminate the gateways of points in Iowa on and north of U.S. Highway 20 and on and east of U.S. Highway 65.

(14) *Commodities* the transportation of which, because of size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported in trailers), (a) between points in Kansas on and east of U.S. Highway 59, on the one hand, and, on the other, points in Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line at La Crosse, Wis., extending in an easterly direction along Wisconsin Highway 33 to junction Wisconsin Highway 28, thence along Wisconsin Highway 28 to Sheboygan, Wis. The purpose of this filing is to eliminate the gateways of points in Minnesota within 25 miles of the Minnesota-Wisconsin State line or of the Minnesota-Iowa State line (except points south and west of Minnesota Highway 60).

(b) Between points in Wisconsin, on the one hand, and, on the other, points in Kansas on and east of U.S. Highway 77 and on and west of U.S. Highway 59. The purpose of this filing is to eliminate the gateway of points in Minnesota within 25 miles of the Minnesota-Iowa State line or of the Minnesota-Wisconsin State line.

(c) Between points in Wisconsin, on the one hand, and, on the other, points in Kansas on and west of U.S. Highway 77. The purpose of this filing is to eliminate the gateway of points in Iowa on and north of U.S. Highway 20 and on and east of U.S. Highway 65.

(15) *Commodities* the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported in trailers), between points in Missouri on and west of U.S. Highway 71, on the one hand, and, on the other, points in Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line at La Crosse, Wis., extending along Wisconsin Highway 33 to junction Wisconsin Highway 28, thence along Wisconsin Highway 28 to Sheboygan, Wis. The purpose of this filing is to eliminate the gateway of points in Minnesota within

25 miles of the Minnesota-Wisconsin State line or of the Minnesota-Iowa State line on, north, and west of Minnesota Highway 60.

No. MC 113855 (Sub-No. 331G), filed September 22, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, because of their size or weight require the use of special equipment and (2) *self-propelled articles*, each weighing 15,000 lbs. or more and related machinery, tools, parts, and supplies moving in connection therewith, restricted in (2) above to commodities which are transported on trailers, (A) between points in Wisconsin, on the one hand, and, on the other, points in Indiana, Minnesota, Kentucky, Ohio, West Virginia, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland (except points west of Interstate Highway 81), Virginia (except points west and north of a line beginning at the Virginia-Maryland State line along Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina State line), North Carolina (except points west of U.S. Highway 321), the District of Columbia, the following described portions of Pennsylvania: Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 224 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Prospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, Pa., thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641 (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, and thence along Pennsylvania Highway 997 to the Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified, points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa.,

to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour and Columbia Counties, Pa.), and the following described territory in Illinois: that part of Illinois lying south of U.S. Highway 6 and on, north, and west of a line beginning at Quincy, Ill., and extending along Illinois Highway 104 to junction U.S. Highway 66, thence northward along U.S. Highway 66 to junction Illinois Highway 53 (formerly alternate U.S. Highway 66) at or near Gardner, Ill., thence along Illinois Highway 53 to junction U.S. Highway 66 at a point approximately 10 miles northeast of Plainfield, Ill., and thence along U.S. Highway 66 to Chicago, Ill. The purpose of this filing is to eliminate the gateways of any points on the Minnesota-Wisconsin State line, Elgin, Ill., Scranton, Reading or Hazleton, Pa., points in Ohio, and Davenport, Iowa.

(B) Between points in Minnesota, on the one hand, and, on the other, points in Indiana, Ohio, Kentucky, West Virginia, Virginia (except points west and north of a line beginning at the Virginia-Maryland State line along Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina State line), Maryland (except points west of Interstate Highway 81), Delaware, New Jersey, New York, Massachusetts, Connecticut, Rhode Island, North Carolina (except points west of U.S. Highway 321), the District of Columbia, the following described portions of Pennsylvania: Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 224 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Prospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, Pa., thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641 (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, and thence along Pennsylvania Highway 997 to the Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified, points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line



and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Montour, Northumberland, and Columbia Counties, Pa. The purpose of this filing is to eliminate the gateways of Elgin, Ill., points in Ohio, any point on the Minnesota-Wisconsin State line, and any point in Minnesota within 25 miles of the Wisconsin-Minnesota State line or the Iowa-Minnesota State line.

(C) Between points in Illinois on, north, and west of a line beginning at Quincy, Ill., and extending along Illinois Highway 104 to junction U.S. Highway 66, thence northward along U.S. Highway 66 to junction Illinois Highway 53 (formerly alternate U.S. Highway 66), at or near Gardner, Ill., thence along Illinois Highway 53 to junction U.S. Highway 66 at a point approximately 10 miles northeast of Plainfield, Ill., and thence along U.S. Highway 66 to Chicago, Ill., on the one hand, and, on the other, points in Minnesota, Indiana, Kentucky, Ohio, West Virginia, Virginia (except points west and north of a line beginning at the Virginia-Maryland State line along Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina State line), North Carolina (except points west of U.S. Highway 321), Maryland (except points west of Interstate Highway 81), New Jersey, Delaware, New York, Connecticut, Massachusetts, Rhode Island, the District of Columbia and the following described portions of Pennsylvania: Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 224 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Prospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, Pa., thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway

641 (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, and thence along Pennsylvania Highway 997 to the Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified, points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.), and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Montour, Northumberland, and Columbia Counties, Pa. The purpose of this filing is to eliminate the gateways of Elgin, Ill., points in Ohio, any point on the Minnesota-Wisconsin State line and Davenport, Iowa.

(D) Between points in Iowa on and north of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 6 to junction unnumbered highway (formerly portion U.S. Highway 6), thence along unnumbered highway through Victor and Brooklyn, Iowa to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 90 (formerly portion of U.S. Highway 6), thence along Iowa Highway 90 through Colfax, Iowa to Des Moines, Iowa on and east of U.S. Highway 65 from Des Moines, to the Iowa-Minnesota State line, on the one hand, and, on the other, points in Minnesota, Indiana, Ohio, Kentucky, West Virginia, Virginia (except points west and north of a line beginning at the Virginia-Maryland State line along Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Virginia-North Carolina State line), North Carolina (except points west of U.S. Highway 321), Maryland (except points west of Interstate Highway 81), Delaware, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, the District of Columbia, the following described portions of Pennsylvania: Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, Pa., and mines in that part of Pennsylvania south and west of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 224 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S.

Highway 19 near Rose Point, Pa., thence along U.S. Highway 19 to junction unnumbered highway near Portersville, Pa., thence along unnumbered highway via Prospect, Pa., to junction U.S. Highway 422, thence along U.S. Highway 422 to Ebensburg, Pa., thence along U.S. Highway 22 to junction U.S. Highway 522.

Thence along U.S. Highway 522 to junction Pennsylvania Highway 641 (formerly Pennsylvania Highway 433), thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 997, and thence along Pennsylvania Highway 997 to the Pennsylvania-Maryland State line, including points on the indicated portions of the highways specified, points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along unnumbered highway (formerly portion U.S. Highway 15) to junction Business U.S. Highway 15, near Fairplay, Pa., thence along Business U.S. Highway 15 through Gettysburg, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway (formerly portion U.S. Highway 15), thence along unnumbered highway through Clear Spring, Pa., to junction U.S. Highway 15, thence along U.S. Highway 15 to the Pennsylvania-New York State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa., and points in Pennsylvania on and east of the above described line in Adams, York, Cumberland, Perry, Dauphin, Lebanon, and Lancaster Counties, Pa., and points in Pennsylvania on and east of U.S. Highway 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Montour, Northumberland, and Columbia Counties, Pa., points in Illinois south of U.S. Highway 6 and on, north, and west of a line beginning at Quincy, Ill., and extending along Illinois Highway 104 to junction U.S. Highway 66, thence northward along U.S. Highway 66 to junction Illinois Highway 53 (formerly alternate U.S. Highway 66) at or near Gardner, Ill.

Thence along Illinois Highway 53 to junction U.S. Highway 66 at a point approximately 10 miles northeast of Plainfield, Ill., and thence along U.S. Highway 66 to Chicago, Ill., Restriction: Service at points in Indiana, Ohio, Kentucky, West Virginia, Virginia, North Carolina, Maryland, Delaware, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, the described portions of Pennsylvania and Illinois south of U.S. Highway 6 and on north and west of a line beginning at Quincy, Ill., and extending along Illinois Highway 104 to junction U.S. Highway 66, thence northward along U.S. Highway 66 to junction Illinois Highway 53 (formerly alternate U.S. Highway 66) at or near Gardner, Ill., thence along Illinois Highway 53 to junction U.S. Highway 66 at a point approximately 10 miles northeast of Plainfield, Ill., and thence along U.S. Highway 66 to Chicago, Ill., restricted against the transportation of boats, and iron and



steel articles. The purpose of this filing is to eliminate the gateways of Elgin, Ill., points in Ohio, and Davenport, Iowa.

No. MC 114552 (Sub-No. 106G), filed September 23, 1975. Applicant: SENN TRUCKING COMPANY, a Corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, composition board, urethane and urethane products, and such insulation materials and roofing and roofing materials and supplies* as are useful in the manufacture and distribution of roofing and roofing materials (except commodities in bulk), from the District of Columbia and points in North Carolina, South Carolina and Virginia, to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, North Carolina, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Elizabethtown, Ky., Wayne County, N.C., and Greenwood County, S.C.

No. MC 114552 (Sub-No. 107G), filed September 23, 1975. Applicant: SENN TRUCKING COMPANY, a Corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Composition board*, from points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Roaring River, N.C., Wayne County, N.C., and Greenwood County, S.C.

#### Office of Proceedings

#### IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY-ELIMINATION OF GATEWAY LETTER-NOTICES

##### Notice

OCTOBER 22, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving

fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 564 (Sub-No. E2), filed June 4, 1974. Applicant: DUDLEY'S TRANS-CONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, (1) between points in that part of Iowa within 150 miles of Austin, Minn., and on and west of Iowa Highway 4, on the one hand, and, on the other, points in Tennessee; (2) between points in that part of Iowa within 150 miles of Austin, Minn., and on and west of U.S. Highway 69, on the one hand, and, on the other, points in that part of Tennessee on and south of a line beginning at the Kentucky-Tennessee State line, thence along Tennessee Highway 69 to junction U.S. Highway 70, thence along U.S. Highway 70 to intersection U.S. Highway 11E, thence along U.S. Highway 11E to intersection U.S. Highway 321, thence along U.S. Highway 321 to the Tennessee-North Carolina State line. The purpose of this filing is to eliminate the gateway of points in that part of Missouri south of U.S. Highway 54 and west of Missouri Highway 5.

No. MC 564 (Sub-No. E68), filed June 4, 1974. Applicant: DUDLEY'S TRANS-CONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley, (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, (1) between points in that part of Iowa on and east of U.S. Highway 63, except points in Iowa within 150 miles of Austin, Minn., on the one hand, and, on the other, points in the Upper Peninsula of Michigan; (2) between points in that part of Michigan on and north of Michigan Highway 21 and points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in that part of Iowa bounded by a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 61 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Iowa-Missouri State line, except points in Iowa within

150 miles of Austin, Minn. The purpose of this filing is to eliminate the gateways of points in Illinois within 150 miles of Austin, Minn.

No. MC 564 (Sub-No. E72), filed June 4, 1974. Applicant: DUDLEY'S TRANS-CONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in that part of Maine on and north of a line beginning at the New Hampshire-Maine State line and extending along U.S. Highway 2 to junction U.S. Alternate Highway 1, thence along U.S. Alternate Highway 1 to junction Maine Highway 3, thence along Maine Highway 3 to the Atlantic Ocean, on the one hand, and, on the other, points in that part of Michigan on and west of a line beginning at the Indiana-Michigan State line and extending along U.S. Highway 131 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Interstate Highway 75, thence along Interstate Highway 75 to the United States-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of points in Illinois.

No. MC 1872 (Sub-No. E18), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West St., Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber*; (1) from those points in Montana on and east of a line beginning at the United States-Canada International Boundary line and extending along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to the Montana-Wyoming State line, to points in Nevada; (2) from points in Montana to those points in Lincoln and Uinta Counties, Wyo., on and south of U.S. Highway 30N; (3) from those points in Idaho on and south of Interstate Highway 80N to those points in Lincoln and Uinta Counties, Wyo., on and south of U.S. Highway 30N; (4) from those points in Idaho on and north of U.S. Highway 10 to those points in Nevada on and south of U.S. Highway 6; and (5) from those points in Idaho on and east of a line beginning at the Idaho-Montana State line and extending along U.S. Highway 93 to junction U.S. Highway Alternate 93, thence along U.S. Highway Alternate 93 to junction U.S. Highway 26, thence along U.S. Highway 26 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Idaho-Utah State line to those points in Nevada on and south of U.S. Highway 6. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah.

No. MC 1872 (Sub-No. E20), filed June 4, 1974. Applicant: ASHWORTH



TRANSFER, INC., 1526 South 700 West St., Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, which are contractors' supplies; (1) from points in Idaho to points in Kansas, Missouri, Iowa, and those in Nebraska on and south of a line beginning at the Nebraska-Wyoming State line and extending along U.S. Highway 26 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction Nebraska Highway 91, thence along Nebraska Highway 91 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Nebraska-Iowa State line (Colorado)\*; (2) from those points in Idaho on and north of U.S. Highway 12 to those points in Wyoming on and south of a line beginning at the Wyoming-Nebraska State line and extending along U.S. Highway 26 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction Wyoming Highway 34, thence along Wyoming Highway 34 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to the Wyoming-Colorado State line (Colorado)\*; (3) from those points in Idaho on and south of a line beginning at the Idaho-Oregon State line and extending along Interstate Highway 80N to junction Idaho Highway 68, thence along Idaho Highway 68 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Idaho-Wyoming State line to those points in Wyoming on, south, and east of a line beginning at the Wyoming-Nebraska State line and extending along U.S. Highway 26 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction Wyoming Highway 34, thence along Wyoming Highway 34 to junction U.S. Highway 287, thence along U.S. Highway 287 to the Wyoming-Colorado State line (Colorado)\*.

(4) From those points in Idaho on and south of a line beginning at the Idaho-Oregon State line and extending along Interstate Highway 80N to junction U.S. Highway 30N, thence along U.S. Highway 30N to the Idaho-Wyoming State line, to those points in South Dakota on, south, and east of a line beginning at the South Dakota-Minnesota State line and extending along U.S. Highway 212 to junction South Dakota Highway 37, thence along South Dakota Highway 37 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 83, thence along U.S. Highway 83 to the South Dakota-Nebraska State line (Colorado)\*; (5) from points in Idaho to those points in Coconino County, Ariz., north of an east-west line extending through The Gap, Ariz. (Utah)\*; (6) from those

points in Montana on and west of a line beginning at the United States-Canada International Boundary line and extending along Interstate Highway 15 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming State line to those points in Nebraska on and south of U.S. Highway 30 (Colorado)\*; (7) from points in Montana to points in Kansas, Missouri, those in Wyoming on, south, and east of a line beginning at the Wyoming-Nebraska State line and extending along Interstate Highway 80 to junction U.S. Highway 287, thence along U.S. Highway 287 to the Wyoming-Colorado State line, and those in Coconino County, Ariz., north of an east-west line through The Gap, Ariz. (Colorado)\*; and (8) from those points in Montana on and west of a line beginning at the United States-Canada International Boundary line and extending along Interstate Highway 15 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming State line to those points in Iowa on and south of Interstate Highway 80 (Colorado)\*, restricted to the transportation of lumber and lumber products, which are contractors' supplies, as defined by the Commission to points in Coconino County, Ariz. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 1872 (Sub-No. E21), filed June 4, 1974. Applicant: ASHEWORTH TRANSFER, INC., 1526 South 700 West St., Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, when moving as materials or supplies used in telephone and power pole lines; between those points in New Mexico on, north, and east of a line beginning at the New Mexico-Arizona State line and extending along New Mexico Highway 504 to junction U.S. Highway 550, thence along U.S. Highway 550 to junction New Mexico Highway 17, thence along New Mexico Highway 17 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 285, thence along U.S. Highway 285 to the New Mexico-Texas State line, on the one hand, and, on the other, those points in Nevada on and north of U.S. Highway 6; and between points in New Mexico, on the one hand, and, on the other, those points in Idaho south of the Salmon River, and those in Teton, Lincoln, Sublette, and Uinta Counties, Wyo. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah.

No. MC 1872 (Sub-No. E22), filed June 4, 1974. Applicant: ASHEWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P.

Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, when moving as materials or supplies used in telephone and power pole lines, from points in Idaho to points in New Mexico, and from those points in Montana on and west of a line beginning at the United States-Canada International Boundary line and extending along Montana Highway 233 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Montana Highway 236, thence along Montana Highway 236 to junction U.S. Highway 191, thence along U.S. Highway 191 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Montana-Wyoming State line, to those points in New Mexico on, west and south of a line beginning at the New Mexico-Colorado State line and extending along New Mexico Highway 3 to junction New Mexico Highway 104, thence along New Mexico Highway 104 to junction U.S. Highway 66, thence along U.S. Highway 66 to the New Mexico-Texas State line. The purpose of this filing is to eliminate the gateway of Utah.

No. MC 1872 (Sub-No. E23), filed June 4, 1974. Applicant: ASHEWORTH TRANSFER, INC., 1526 South 700 West St., Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from Vancouver, Wash., and Great Falls and Black Eagle, Mont., to Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah. The purpose of this filing is to eliminate the gateway of points in Idaho south of the Salmon River.

No. MC 1872 (Sub-No. E24), filed June 4, 1974. Applicant: ASHEWORTH TRANSFER, INC., 1526 South 700 West St., Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, as described in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 81 M.C.C. 209 (except liquid products, in bulk, in tank vehicles); (1) from Vancouver, Wash., and Great Falls and Black Eagle, Mont., to points in Sweetwater and Uinta Counties, Wyo. (points in Idaho south of the Salmon River, and Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah)\*; and (2) between points in Sweetwater and Uinta Counties, Wyo., on the one hand, and, on the other, points in Nevada, and those in Idaho south of the Salmon River (Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah)\*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 1872 (Sub-No. E25), filed June 4, 1974. Applicant: ASHEWORTH



TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building materials*, as described in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except liquid and petroleum products in bulk, in tank vehicles, and Class A and B explosives), between those points in Coconino County, Ariz., north of an east-west line through The Gap, Ariz., on the one hand, and, on the other, points in Sweetwater County, Wyo. The purpose of this filing is to eliminate the gateway of Utah.

No. MC 1872 (Sub-No. E26), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building materials*, as defined by the Commission in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, except petroleum products, in bulk, in tank vehicles, and Classes A and B explosives, (1) from Vancouver, Wash., and Great Falls and Black Eagle, Mont., to those points in Coconino County, Ariz., north of an east-west line through The Gap, Ariz., and points in Utah (points in Idaho, south of the Salmon River and Salt Lake City, Utah, within 50 miles of Salt Lake City, Utah)\*; (2) from those points in Coconino County, Ariz., north of an east-west line through The Gap, Ariz., to those points in Montana on and west of a line beginning at the United States-Canada International Boundary line and extending along U.S. Highway 93 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Montana-Idaho State line (Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah, and Boise Idaho)\*; and (3) between those points in Coconino County, Ariz., north of an east-west line through The Gap, Ariz., on the one hand, and, on the other, those points in Idaho, south of the Salmon River, those in Nevada on and north of a line beginning at the Nevada-Oregon State line and extending along Nevada Highway 140 to junction U.S. Highway 95 thence along U.S. Highway 95 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Nevada-Utah State line and those in Teton, Lincoln, Sublette and Uinta Counties, Wyo. (Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah)\*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 1872 (Sub-No. E27), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo.

80217. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, when moving as building materials as defined by the Commission in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in Montana and those in Idaho north of the Salmon River, to those points in Coconino County, Ariz., north of an east-west line through The Gap, Ariz. The purpose of this filing is to eliminate the gateway of Utah.

No. MC 1872 (Sub-No. E28), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building materials*, as described in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, when moving as contractors' supplies, except liquid products, in bulk, in tank vehicles, (1) between points in Utah, on the one hand, and, on the other, those points in Nebraska on, north, and east of a line beginning at the Nebraska-South Dakota State line and extending along U.S. Highway 83 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line (Sweetwater or Uinta Counties, Wyo.)\*; (2) between those points in Utah on, north, and west of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 40 to junction Utah Highway 53, thence along Utah Highway 53 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Utah Highway 10, thence along Utah Highway 10 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Utah-Arizona State line, on the one hand, and, on the other, points in Nebraska (Sweetwater or Uinta Counties, Wyo.)\*; (3) between those points in Utah on, north, and west of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 40 to junction U.S. Highway 189, thence along U.S. Highway 189 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Utah-Arizona State line, on the one hand, and, on the other, points in Kansas (Sweetwater or Uinta Counties, Wyo.)\*; (4) between those points in Utah on, north, and west of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 40 to junction Utah Highway 53, thence along Utah Highway 53 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Utah Highway 10, thence along Utah Highway 10 to junction Interstate Highway 70,

thence along Interstate Highway 70 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Utah-Arizona State line, on the one hand, and, on the other, those points in Kansas on, north, and east of a line beginning at the Kansas-Colorado State line and extending along Interstate Highway 70 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 56, thence along U.S. Highway 56 to junction Kansas Highway 14, thence along Kansas Highway 14 to junction Kansas Highway 96, thence along Kansas Highway 96 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Kansas-Oklahoma State line (Sweetwater or Uinta Counties, Wyo.)\*; (5) between those points in Utah on, north, and west of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 40 to junction Utah Highway 53, thence along Utah Highway 53 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Utah Highway 10, thence along Utah Highway 10 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Utah-Arizona State line, on the one hand, and, on the other, those points in Missouri on and north of Interstate Highway 44 (Sweetwater or Uinta Counties, Wyo.)\*; (6) between those points in Utah on, north, and west of a line beginning at the Utah-Idaho State line and extending along U.S. Highway 91 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Utah-Nevada State line, on the one hand, and, on the other, those points in Colorado on, north, and east of a line beginning at the Colorado-Wyoming State line and extending along Colorado Highway 789 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Colorado-Kansas State line (Sweetwater or Uinta Counties, Wyo.)\*.

(7) Between points in Utah, on the one hand, and, on the other, points in Iowa (Sweetwater or Uinta Counties, Wyo.)\*; (8) between those points in Utah on and north of Interstate Highway 80, on the one hand, and, on the other, those points in Colorado on and east of a line beginning at the Colorado-Wyoming State line and extending along Colorado Highway 789 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Colorado Highway 9, thence along Colorado Highway 9 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico State line (Sweetwater or Uinta Counties, Wyo.)\*; (9) between points in Utah, on the one hand, and, on the other, points in Wyoming and South Dakota (Sweetwater or Uinta Counties, Wyo.)\*; (10) between points in Nevada, on the one hand, and, on the other, points in Nebraska, Missouri, Iowa, Wyoming, South Dakota, those in Kansas on and north of a line beginning at the Kansas-Colorado State line and extending along U.S. Highway 50 to junction U.S. Highway 154, thence



along U.S. Highway 154 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Kansas Highway 96, thence along Kansas Highway 96 to junction Kansas Highway 39, thence along Kansas Highway 39 to junction Kansas Highway 7, thence along Kansas Highway 7 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Missouri State line, and those in Colorado on, north, and east of a line beginning at the Colorado-Wyoming State line and extending along Colorado Highway 789 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Colorado-Kansas State line (Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah, and Sweetwater or Uinta Counties, Wyo.) \*; (11) between those points in Nevada on and north of U.S. Highway 6, on the one hand, and, on the other, points in Kansas (Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah, and Sweetwater or Uinta Counties, Wyo.) \*.

(12) Between those points in Nevada on and north of a line beginning at the Nevada-California State line and extending along U.S. Highway 50 to junction Nevada Highway 8A, thence along Nevada Highway 8A to junction U.S. Highway 40, thence along U.S. Highway 40 to the Nevada-Utah State line, on the one hand, and, on the other, those points in Colorado on, north, and east of a line beginning at the Colorado-Utah State line and extending along U.S. Highway 40 to junction Colorado Highway 789, thence along Colorado Highway 789 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Colorado Highway 82, thence along Colorado Highway 82 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico State line (Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah, and Sweetwater or Uinta Counties, Wyo.) \*; (13) between those points in Idaho south of the Salmon River, on the one hand, and, on the other, points in Kansas, Missouri, Iowa, Colorado, those in Nebraska on, east, and south of a line beginning at the Nebraska-South Dakota State line and extending along U.S. Highway 183 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Nebraska Highway 7, thence along Nebraska Highway 7 to junction Nebraska Highway 91, thence along Nebraska Highway 91 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Nebraska-Wyoming State line, and those in Wyoming on and south of Interstate Highway 80 (Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah, and Sweetwater or Uinta Counties, Wyo.) \*; (14) between

those points in Idaho on and south of Interstate Highway 80N, on the one hand, and, on the other, those points in South Dakota on, east, and south of a line beginning at the South Dakota-North Dakota State line and extending along South Dakota Highway 65 to junction U.S. Highway 212, thence along U.S. Highway 212 to the South Dakota-Wyoming State line (Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah, and Sweetwater or Uinta Counties, Wyo.) \*.

(15) from Vancouver, Wash., to points in Nebraska, Kansas, Missouri, Iowa, Colorado, Wyoming, and those in South Dakota on, east, and south of a line beginning at the South Dakota-North Dakota State line and extending along U.S. Highway 83 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction South Dakota Highway 20, thence along South Dakota Highway 20 to junction South Dakota Highway 65, thence along South Dakota Highway 65 to junction U.S. Highway 212, thence along U.S. Highway 212 to the South Dakota-Wyoming State line (points in Idaho south of the Salmon River, Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah, and Sweetwater or Uinta Counties, Wyo.) \*; and (16) from Great Falls and Black Eagle, Mont., to those points in Kansas on and south of a line beginning at the Kansas-Oklahoma State line and extending along U.S. Highway 54 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Kansas-Missouri State line, those in Missouri on, south, and east of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 66 to junction Missouri Highway 68, thence along Missouri Highway 68 to junction Missouri Highway 32, thence along Missouri Highway 32 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Arkansas State line, and those in Colorado on and west of a line beginning at the Colorado-Wyoming State line and extending along Colorado Highway 789 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Colorado Highway 131, thence along Colorado Highway 131 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 285, thence along U.S. Highway 285 to junction Colorado Highway 291, thence along Colorado Highway 291 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 285, thence along U.S. Highway 285 to junction Colorado Highway 17, thence along Colorado Highway 17 to junction U.S. Highway 285, thence along U.S. Highway 285 to the Colorado-New Mexico State line (points in Idaho south of the Salmon River, Salt Lake City, Utah, and points in Utah within 50 miles of Salt Lake City, Utah, and in Sweetwater or Uinta Counties, Wyo.) \*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 1872 (Sub-No. E29), filed June 4, 1974. Applicant: ASHWORTH TRANSFER, INC., 1526 South 700 West

Street, Salt Lake City, Utah 84104. Applicant's representative: Richard P. Kissinger, P.O. Box 17B, Denver, Colo. 80217. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cast iron pressure pipe (except pipe used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas, and petroleum, and their products and by-products), and fittings and accessories therefor, which are iron and steel articles, as defined by the Commission, when moving with cast iron pressure pipe, (1) from Council Bluffs, Iowa, to points in Nevada and those in Colorado on and west of a line beginning at the Colorado-Utah State line and extending along U.S. Highway 6 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 550, thence along U.S. Highway 550 to the Colorado-New Mexico State line (Utah) \*; (2) from Council Bluffs, Iowa, to those points in New Mexico on and west of a line beginning at the New Mexico-Colorado State line and extending along U.S. Highway 550 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction New Mexico Highway 509, thence along New Mexico Highway 509 to junction New Mexico Highway 53, thence along New Mexico Highway 53 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction New Mexico Highway 117, thence along New Mexico Highway 117 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction New Mexico Highway 32, thence along New Mexico Highway 32 to junction New Mexico Highway 78, thence along New Mexico Highway 78 to junction New Mexico Highway 61, thence along New Mexico Highway 61 to junction U.S. Highway 180, thence along U.S. Highway 180 to junction New Mexico Highway 11, thence along New Mexico Highway 11 to the United States-Mexico International Boundary line (Utah or Arizona) \*; and

(3) from Council Bluffs, Iowa, to those points in Montana on and west of a line beginning at the United States-Canada International Boundary line and extending along U.S. Highway 89 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 191, thence along U.S. Highway 191 to the Montana-Idaho State line, and those in Wyoming on and west of a line beginning at the Wyoming-Montana State line and extending along U.S. Highway 89 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction U.S. Highway 189, thence along U.S. Highway 189 to junction Wyoming Highway 240, thence along Wyoming Highway 240 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction Interstate Highway 80, thence



along Interstate Highway 80 to junction U.S. Highway 308, thence along U.S. Highway 308 to junction Wyoming Highway 412, thence along Wyoming Highway 412 to junction Wyoming Highway 414, thence along Wyoming Highway 414 to the Wyoming-Utah State line. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 4405 (Sub-No. E21), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in California. The purpose of this filing is to eliminate the gateway of E. St. Louis, Ill., points in Oklahoma, Texas, New Mexico, and Nevada, or those points in California in and south of Mono, Tuolumne, Santa Clara, and Santa Cruz Counties and north of a line beginning at the Pacific Ocean extending through Monterey, Salinas, Fresno, Dunlop, and Independence, Calif., to the California-Nevada State line.*

No. MC 4405 (Sub-No. E22), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith, between points in New Mexico on, north, and west of U.S. Highway 54, on the one hand, and, on the other, points in California north of Mono, Tuolumne, Santa Clara, and Santa Cruz Counties. The purpose of this filing is to eliminate the gateway of those points in California south of the northern boundaries of Mono, Tuolumne, Santa Clara, and Santa Cruz Counties, and north of a line beginning at the Pacific Ocean extending through Monterey, Salinas, Fresno, Dunlop, and Independence, Calif., to the California-Nevada State line.*

No. MC 4405 (Sub-No. E23), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment or handling*

*by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Michigan, on the one hand, and, on the other, points in Colorado, restricted against the transportation of the above commodities between points in Iron, Baraga, Keweenaw, Houghton, Geoghegan, and Ontonagon Counties, Mich., on the one hand, and, on the other, points in Washington, Yuma, Phillips, Logan, and Sedgwick Counties, Colo. The purpose of this filing is to eliminate the gateway of E. St. Louis, Ill.*

No. MC 4405 (Sub-No. E24), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in Missouri south of U.S. Highway 36. The purpose of this filing is to eliminate the gateway of E. St. Louis, Ill.*

No. MC 4405 (Sub-No. E25), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Michigan, on the one hand, and, on the other, points in Oklahoma and Kansas. The purpose of this filing is to eliminate the gateway of E. St. Louis, Ill.*

No. MC 4405 (Sub-No. E26), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, (1) between points in Michigan in and south of Ottawa, Kent, Montcalm, Gratiot, Saginaw, and Bay Counties, on the one hand, and, on*

*the other, points in Nebraska in and south of Scottsbluff, Morrill, Garden, Keith, Lincoln, Dawson, Buffalo, Hall, Clay, Fillmore, Saline, Gage, Johnson, and Nemaha Counties, and (2) between points in Michigan east of Isabella, Clarke, Roscommon, Crawford, Otsego Counties, on the one hand, and, on the other, points in Nebraska in and west of Lincoln Frontier, and Red Willow Counties, and in and south of Scottsbluff, Morrill, Garden, Keith, and Lincoln Counties. The purpose of this filing is to eliminate the gateway of E. St. Louis, Ill.*

No. MC 4405 (Sub-No. E27), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Michigan, on the one hand, and, on the other, points in Texas (points in Oklahoma and E. St. Louis, Ill.\*); points in New Mexico (points in Texas, Oklahoma, and E. St. Louis, Ill.\*); and points in Arizona (points in New Mexico, Texas, Oklahoma, and E. St. Louis, Ill.\*). The purpose of this filing is to eliminate the gateways indicated by the asterisks above.*

No. MC 4405 (Sub-No. E28), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in Missouri, restricted against the transportation of the above commodities between points in Michigan south of a line beginning at Lake Michigan extending along Interstate Highway 96 to junction U.S. Highway 131 to the Michigan-Indiana State line, on the one hand, and, on the other, points in Missouri east of a line beginning at the Missouri-Iowa State line extending along U.S. Highway 63 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Missouri-Mississippi State line.*

No. MC 4405 (Sub-No. E29), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower,



5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in California north of Inyo, Fresno, Madera, Mariposa, Stanislaus, San Joaquin, Contra Costa, and San Francisco Counties. The purpose of this filing is to eliminate the gateway of E. St. Louis, Ill., points in Oklahoma, Texas, New Mexico, and those in California in and south of Mono, Tuolumne, Stanislaus, Santa Clara, and Santa Cruz Counties, and north of a line beginning at the Pacific Ocean extending through Monterey, Salinas, Fresno, Dunlap, and Independence, Calif., to the California-Nevada State line.*

No. MC 4405 (Sub-No. E30), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Kansas, on the one hand, and, on the other, points in Nevada, restricted against the transportation of traffic between points in Kansas north of Interstate Highway 70 and west of U.S. Highway 281, on the one hand, and, on the other, points in Elko, Pershing, and Humboldt Counties, Nev. The purpose of this filing is to eliminate the gateways of points in Oklahoma, Texas, and New Mexico.*

No. MC 4405 (Sub-No. E31), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Nebraska on and east of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 81 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Iowa-Nebraska State line, on the one hand, and, on the other, points in Nevada on and west of a line beginning at the Arizona-Nevada*

State line and extending along U.S. Highway 93 to junction Arizona Highway 25, thence along Arizona Highway 25 to junction U.S. Highway 6, thence along U.S. Highway 6 to the California-Nevada State line. The purpose of this filing is to eliminate the gateways of points in Oklahoma, Texas, and New Mexico.

No. MC 4405 (Sub-No. E32), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities, as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Colorado on and east of a line beginning at the Wyoming-Colorado State line and extending along U.S. Highway 87 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Nebraska State line, on the one hand, and, on the other, points in New Mexico on and south of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 54 to junction U.S. Highway 70, thence along U.S. Highway 70 to the New Mexico-Arizona State line. The purpose of this filing is to eliminate the gateways of points in Oklahoma and Texas.*

No. MC 4405 (Sub-No. E33), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities, as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Oklahoma, on the one hand, and, on the other, points in Nevada. The purpose of this filing is to eliminate the gateways of points in Texas and those in New Mexico north and west of U.S. Highway 54.*

No. MC 4405 (Sub-No. E34), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities, as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Arizona, on the one*

hand, and, on the other, points in Missouri, Kansas, Nebraska (points in Oklahoma, Texas, and New Mexico)\*, and E. St. Louis, Ill. (St. Louis, Mo., and points in Oklahoma, Texas, and New Mexico)\*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 4405 (Sub-No. E35), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities, as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Kansas, Missouri, and E. St. Louis, Ill., on the one hand, and, on the other, points in New Mexico. The purpose of this filing is to eliminate the gateways of points in Oklahoma and Texas.*

No. MC 4405 (Sub-No. E36), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith, between points in Michigan, on the one hand, and, on the other, points in Nevada, restricted against the transportation of the above commodities, between points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in Nevada, restricted against the transportation of the above commodities, between points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in Nevada north of a line beginning at the Nevada-Arizona State line and extending along U.S. Highway 93 to junction Nevada Highway 25, thence along Nevada Highway 25 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Nevada-California State line. The purpose of this filing is to eliminate the gateways of E. St. Louis, Ill., points in Oklahoma, Texas, and New Mexico.*

No. MC 4405 (Sub-No. E37), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, except any of such commodities*



used in connection with the construction of, or dismantling of, main or trunk pipelines, including the stringing or picking up thereof; and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Michigan, on the one hand, and, on the other, points in Arkansas, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of points in Indiana or Ohio.

No. MC 4405 (Sub-No. E38), filed June 4, 1974. Applicant: DEALER'S TRANSIT, INC., 2200 E. 170th St., Lansing, Ill. 60438. Applicant's representative: Robert Joyner, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such commodities as require special equipment and handling by reason of their unusual weight, bulk, or length, and self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith, between points in Missouri (points in Oklahoma, Texas, and those in New Mexico north and west of U.S. Highway 54), and E. St. Louis, Ill. (St. Louis, Mo., points in Oklahoma, Texas, and those in New Mexico north and west of U.S. Highway 54), on the one hand, and, on the other, points in Nevada. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 13134 (Sub-No. E13), filed September 4, 1975. Applicant: GRANT TRUCKING, INC., P.O. Box 266, Oak Hill, Ohio 45656. Applicant's representative: Joe Haydon (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the plantsite of Bethlehem Steel Corporation, at Lackawanna, N.Y., to points in Washington County, Pa. (Ohio)\*; (2) *Iron and steel articles*, restricted to reinforcement steel and steel rails, from the plantsite of Bethlehem Steel Corporation, Lackawanna, N.Y., to points in Kentucky (except those in Bracken, Pendleton, Grant, Gallatin, Carroll, Trimble, Boone, Kenton, and Campbell Counties) (points in Ohio within the Huntington, W. Va., commercial zone)\*; (3) *Iron and steel articles* (except aircraft and missiles and parts, thereof, which, because of size or weight, require the use of special equipment, from the plantsite of Bethlehem Steel Corporation at Lackawanna, N.Y., to points in West Virginia, and those in Kentucky on and east of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 25 to junction U.S. Highway 25W, thence along U.S. Highway 25W to the Kentucky-Tennessee State line (those points in Ohio south of U.S. Highway 40)\*; (4) *Iron and steel articles*, restricted to reinforcing steel, steel rails, and railway

track, materials, and fittings, structural steel, including fittings and bolts, from the plantsite of Bethlehem Steel Corporation at Lackawanna, N.Y., to those points in Tennessee on and east of U.S. Highway 27 and those in Virginia on, south, and west of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 460 to junction Virginia Highway 8, thence along Virginia Highway 8 to the North Carolina-Virginia State line (those points in Ohio within the Huntington, W. Va., commercial zone)\*;

(5) *Iron and steel articles*, restricted to corrugated iron and steel pipe, including fittings therefor, from the plantsite of Bethlehem Steel Corporation at Lackawanna, N.Y., to those points in Tennessee on and east of U.S. Highway 27 and on and north of U.S. Highway 70, and those in Virginia on, south, and west of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 460 to junction Virginia Highway 8, thence along Virginia Highway 8 to the North Carolina-Virginia State line (points in Ohio within the Ashland, Ky., commercial zone)\*; (6) *Iron and steel articles*, restricted to reinforcing steel, steel rails, and railway track materials and fittings, structural steel, structural steel fittings, bolts, agricultural implement parts, steel posts, and iron and steel bars, from the plantsite of Bethlehem Steel Corporation at Lackawanna, N.Y., to those points in North Carolina on and west of a line beginning at the South Carolina State line and extending along Interstate Highway 95 to junction South Carolina Highway 87, thence along South Carolina Highway 87 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 220, thence along U.S. Highway 220 to the South Carolina-Virginia State line, and those in Kentucky west of U.S. Highway 25 and 25W which are more than ten miles of the Ohio River (except those in Bracken, Pendleton, Grant, Gallatin, Carroll, Trimble, Boone, Kenton, and Campbell Counties) (points in Ohio within the Huntington, W. Va., commercial zone)\*; (7) *Iron and steel articles* (except commodities which because of size or weight require special equipment and those iron and steel articles which are building materials), from the plantsite of Bethlehem Steel Corporation at Lackawanna, N.Y., to points in Alabama, Florida, Georgia, Kansas, and Texas, restricted to the transportation of iron and steel articles as defined by the Commission to points in Kansas (those points in Ohio within the Huntington, W. Va., commercial zone)\*; and (8) *Iron and steel articles*, as defined by the Commission, from the plantsite of Bethlehem Steel Corporation at Lackawanna, N.Y., to points in Arkansas and Oklahoma, restricted against the transportation of building materials and commodities which, because of size or weight, require special equipment (Ohio; Washington, Pa.; and Cabell and Wayne Counties, W. Va.)\*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 19227 (Sub-No. E5), filed May 25, 1974. Applicant: LEONARD BROS. TRUCKING CO., 1701 E. Main St., Grand Prairie, Tex. 75050. Applicant's representative: J. William Cain, Jr., 2001 Massachusetts Ave. NW, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Commodities* (except boats and except oilfield equipment), the transportation of which because of their size or weight require the use of special equipment, and (2) *Self-propelled articles*, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith; between points in that part of Texas south of Culberson, Reeves, Pecos, Crockett, Sutton, Kimble, Mason, Llano, Burnet, Travis, Lee, Burleson, Bryan, Grimes, Montgomery, San Jacinto, Polk, Tyler, Jasper, and Newton Counties, on the one hand, and, on the other, points in that part of Alabama east and south of Cherokee, Calhoun, Talladega, Coosa, Autauga, Lowndes, Wilcox, Monroe, Conecuh, and Escambia Counties, Connecticut, Delaware, that part of Georgia east and south of Fannin, Murray, Gordon, and Floyd Counties, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, that part of New York east and south of Wayne, Seneca, Yates, and Steuben Counties, that part of North Carolina east and south of Swain, Graham, and Cherokee Counties, that part of Pennsylvania east and south of Potter, Elk, Jefferson, Ind., Westmoreland and Fayette Counties, Rhode Island, South Carolina, that part of Tennessee east and south of Hawkins, Hamblen, Jefferson, and Savie Counties, Vermont, that part of Virginia east and south of Buchanan, Dickenson, and Scott Counties, that part of West Virginia east and south of Monongalia, Marion, Harrison, Lewis, Braxton, Clay, Kanawha, Boone, Logan, and Mingo Counties, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Pensacola, Fla.

No. MC 27817 (Sub-No. E9), filed May 12, 1974. Applicant: H. C. GABLER, INC., P.O. Box 220, Chambersburg, Pa. 17201. Applicant's representative: Harold C. Gabler (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*; (1) from points in Delaware and that part of Maryland on and east of U.S. Highway 15, to points in Kentucky (Baltimore, Md., Winchester, Va., the plantsite of Musselman Fruit Products, Division of Pet, Inc., at Inwood, W. Va., and Morgan County, W. Va.)\*; and to points in Ohio and West Virginia (Baltimore, Md., Winchester, Va., and the plantsite of Musselman Fruit Products, Division of Pet, Inc., at Inwood, W. Va.)\*; (2) from points in that part of Virginia on and north of U.S. Highway 60 to points in Ohio (Baltimore, Md., Winchester, Va., and the plantsite of Musselman Fruit Products, Division of Pet, Inc., at Inwood, W. Va.)\*; (3) from points in Virginia (except points in the Del Marva Peninsula) to points in West Virginia (Balti-



more, Md., Winchester, Va., and the plantsite of Musselman Fruit Products, Division of Pet, Inc., at Inwood, W. Va.)\*; (4) from points in that part of Pennsylvania on, east, and south of a line beginning at the Maryland-Pennsylvania State line, thence along the Susquehanna River to Harrisburg, thence along U.S. Highway 322 to the Pennsylvania-New Jersey State line, to points in Ohio (except Ashtabula, Lake, Warren, and Geauga Counties, Ohio) (Baltimore, Md.; Winchester, Va.; and the plantsite of Musselman Fruit Products, Division of Pet, Inc., at Inwood, W. Va.)\*; (5) from points in that part of Pennsylvania on, east, and south of a line beginning at the Maryland-Pennsylvania State line, thence along the Susquehanna River to Harrisburg, thence along U.S. Highway 22 to the Pennsylvania-New Jersey State line, to points in West Virginia (Baltimore, Md.; Winchester, Va.; and the plantsite of Musselman Fruit Products, Division of Pet, Inc., at Inwood, W. Va.)\*; and to points in Kentucky (Baltimore, Md.; Winchester, Va.; the plantsite of Musselman Fruit Products, Division of Pet, Inc., at Inwood, W. Va.; and Morgan County, W. Va.)\*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 29886 (Sub-E58), filed June 3, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Indiana 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *street sweepers*, which because of size or weight require the use of special handling, and *self-propelled street sweepers*, each weighing 15,000 pounds or more, (1) from points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, and New York, to points in Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, Oregon, Washington, and California; (2) from points in Wisconsin to points in Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama (except those in Colbert and Lauderdale Counties, Ala.) those in Tennessee in and east of Sumner, Davidson, Williamson, Maury, and Giles Counties, Tenn., and the District of Columbia; (3) from points in Missouri to points in Delaware, Maryland, and the District of Columbia (points in Michigan on and south of a line extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Michigan, thence along Business Route Interstate Highway 96 to Lansing, Mich., thence on and west of a line beginning along U.S. Highway 127 to Jackson, Mich., thence along unnumbered highway (formerly portion of U.S. Highway 127) to junction U.S. Highway 12, near Somerset Center, Mich., thence along U.S. Highway 12 to junction U.S. Highway 127, to the Michigan-Ohio State line, and South Bend, Ind.)\*; (4) from points in Indiana to points in Min-

nesota, North Dakota, South Dakota, Wyoming, Montana, Idaho, Utah, Nevada, California, Oregon, and Washington; and (5) from those points in Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to junction U.S. Highway 40, to the Ohio-Indiana State line, to points in Colorado, Arizona, and those in Nebraska on and north of a line beginning at the Nebraska-Iowa State line and extending along Nebraska Highway 92, to junction U.S. Highway 30, to junction U.S. Highway 34/281, to junction U.S. Highway 281 to the Nebraska-Kansas State line. (South Bend, Ind.)\*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 29886 (Sub-No. E87) (Correction), filed May 23, 1974, republished in the FEDERAL REGISTER, September 11, 1975. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 W. Sample St., South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Self-propelled road construction and earth moving machines and equipment*, each weighing 15,000 pounds or more, and *road construction and earth moving machines and equipment*, which because of size or weight require special handling or the use of special equipment (except automobiles, trucks, buses, trailers, cabs, and chassis), from those points in Illinois. . . . The purpose of this filing is to eliminate the gateway of South Bend, Ind. The purpose of this partial correction is to correct the commodity description. The remainder of this letter-notice remains as previously published.

No. MC 83539 (Sub-No. E85) (Correction), filed May 29, 1975, published in the FEDERAL REGISTER, September 18, 1975. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Robert N. Maxwell, 500 W. Sixteenth St., P.O. Box 1945, Austin, Tex. 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in Washington on and north of Interstate Highway 90 and Clallam, Kitsap, and Jefferson Counties, Wash., to points in Indiana south of Interstate Highway 70. The purpose of this filing is to eliminate the gateways of points in Montana on and west of a line extending north and south through Dupuyer and Butte, and the facilities of C F & I Steel Corp., at Pueblo, Colo. The purpose of this correction is to correct the origin description.

No. MC 41406 (Sub-No. E14) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER, September 18, 1975. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., P.O. Box 2176, Hammond, Ind. 46323. Applicant's rep-

resentative: E. Stephen Heisley, Ames, Hill & Ames, 666 Eleventh Street NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as are building and construction materials (a) from points in Lake and Cook Counties, Ill., which are on, south, and east of a line beginning at Lake Michigan at Waukegan, Ill., extending along Illinois Highway 120 to its junction with U.S. Highway 45, thence along U.S. Highway 45 to junction Illinois Highway 83, thence along Illinois Highway 83 to Des Plaines, Ill., thence along Illinois Highway 83 to the DuPage-Cook County line, thence along the DuPage-Cook County line to Illinois Highway 171, thence along Illinois Highway 171 to the Will-Cook County line, to points in Iowa except those in Clinton, Cedar, Jackson, Jones, Linn, Dubuque, Delaware, Buchanan, Blackhawk, Clayton, Fayette, Bremer, Butler, Franklin, Chickasaw, Floyd, Cerro Gordo, Hancock, Allamakee, Winneshiek, Howard, Mitchell, Worth, Winnebago, Kosuth, Emmet, Lyon, Osceola, Clay, O'Brien, Dickinson, Palo Alto, Humboldt, Wright, Hardin, Grundy, Tama, Benton Counties and points in Scott County north of Interstate Highway 80; (f) from those points in Will County, Ill., on and south of Interstate Highway 80, to points in Iowa (except those in Clinton and Jackson Counties, Iowa); and (g) from points in Will County, Ill., north of Interstate Highway 80, to those points in Iowa (except those in Allamakee, Clayton, Fayette, Buchanan, Delaware, Dubuque, Linn, Jones, Jackson, Cedar, Clinton, Winneshiek, Benton, and Scott Counties, Iowa). The purpose of this filing is to eliminate the gateways of the plantsite of Jones & Laughlin Steel Corporation, located in Putnam County, Ill. The purpose of this partial correction is to correct the territorial description in (a) above and to add the territorial description in (a) above and to add the territorial descriptions in (f) and (g) above.

No. MC 60014 (Sub-No. E77) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER, September 2, 1975. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee or both; (a) between points in West Virginia, on the one hand, and, on the other, those points in Indiana on and north of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 6 to junction Indiana Highway 9, thence along Indiana Highway 9 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 30, thence along U.S. Highway 30 to the



Indiana-Illinois State line. The purpose of this filing is to eliminate the gateways of Zanesville, Ohio, and points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line. The purpose of this partial correction is to redefine the highway description above. The remainder of this letter-notice remains as previously published.

No. MC 60014 (Sub-No. E145) (Correction), filed June 4, 1974, published in the *FEDERAL REGISTER*, July 23, 1975. The purpose of this partial correction is to correct the "E" number, previously published as E27. The remainder of this letter-notice remains as previously published.

No. MC 60014 (Sub-No. E146) (Correction), filed June 4, 1974, published in the *FEDERAL REGISTER*, July 21, 1975. The purpose of this partial correction is to correct the "E" number, previously published as E83. The remainder of this letter-notice remains as previously published.

No. MC 61825 (Sub-No. E455), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from Altavista, Va., to points in Illinois, Indiana, Iowa, Michigan, Missouri, New York, Ohio, and Wisconsin, and those points in Pennsylvania and West Virginia on, west, and north of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 19 to junction West Virginia Highway 71, thence along West Virginia Highway 71 to junction West Virginia Highway 10, thence along West Virginia Highway 10 to the Wyoming-Mercer County line, thence along the Wyoming-Mercer County line to the Wyoming-Raleigh County line, thence along the Wyoming-Raleigh County line to the Boone-Raleigh County line, thence along the Boone-Raleigh County line to the Kanawha-Raleigh County line, thence along the Kanawha-Raleigh County line to the Kanawha-Fayette County line, thence along the Kanawha-Fayette County line to junction Interstate Highway 77, thence along the Interstate Highway 77 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction West Virginia Highway 2, thence along West Virginia Highway 2 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 19, thence along U.S. Highway 19 to Pittsburgh, thence along Pennsylvania Highway 380 to junction Pennsylvania Highway 286, thence along Pennsylvania Highway 286 to junction Pennsylvania Highway 954, thence along

Pennsylvania Highway 954 to junction Pennsylvania Highway 85, thence along Pennsylvania Highway 85 to junction Pennsylvania Highway 839, thence along Pennsylvania Highway 839 to junction Pennsylvania Highway 28, thence along Pennsylvania Highway 28 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to junction Pennsylvania Highway 155, thence along Pennsylvania Highway 155 to junction Pennsylvania Highway 607, thence along Pennsylvania Highway 607 to junction Pennsylvania Highway 872, thence along Pennsylvania Highway 872 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 107, thence along Pennsylvania Highway 107 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Martinsville, W. Va.

No. MC 83539 (Sub-No. E98) (Correction), filed June 3, 1974, published in the *FEDERAL REGISTER*, September 18, 1975. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Robert N. Maxwell, 500 W. Sixteenth St., P.O. Box 1945, Austin, Tex. 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report of the Commission in Ex Parte No. 45, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from points in Pennington, Custer, Fall River, Shannon, and Washington Counties, S. Dak., to points in Alabama, Florida, Georgia, Mississippi, New Mexico, Oklahoma, South Carolina, and Texas. The purpose of this filing is to eliminate the gateway of the facilities of the CF & I Steel Corporation, at Pueblo, Colo. The purpose of this correction is to correct the MC number, previously published as 83439.

No. MC 106603 (Sub-No. E44), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building contractors' materials*, from St. Louis, Mo., to those points in Illinois on and east of a line beginning at the Illinois-Indiana State line and extending along Illinois Highway 1 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction Illinois Highway 53, thence along Illinois Highway 53 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Illinois Highway 47, thence along Illinois Highway 47 to the Illinois-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Indiana.

No. MC 106603 (Sub-No. E45), filed May 10, 1974. Applicant: DIRECT

TRANSIT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building contractors' materials*, from St. Louis, Mo., to Cincinnati, Ohio. The purpose of this filing is to eliminate the gateway of Indiana.

No. MC 106603 (Sub-No. E46), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk), from St. Louis, Mo., to those points in Kentucky east of a line beginning at the Kentucky-Indiana State line and extending along Kentucky Highway 69 to junction Kentucky Highway 54, thence along Kentucky Highway 54 to junction Kentucky Highway 259, thence along Kentucky Highway 259 to junction Cumberland Parkway, thence along Cumberland Parkway to junction U.S. Highway 31E, thence along U.S. Highway 31E to the Kentucky-Tennessee State line (except Louisville). The purpose of this filing is to eliminate the gateway of the plant-site of the National Gypsum Company, near Shoals (Martin County), Ind.

No. MC 106603 (Sub-No. E47), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Roofing materials*, which are building contractors' materials, from points in Illinois, to those points in New Jersey on, north, and east of a line beginning at the Pennsylvania-New Jersey State line and extending along Interstate Highway 276 to junction Interstate Highway 295, thence along Interstate Highway 295 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 72, thence along New Jersey Highway 72 to the Atlantic Ocean, those in Pennsylvania on and north of a line beginning at the Ohio-Pennsylvania State line and extending along Interstate Highway 80 to junction Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction Interstate Highway 276, thence along Interstate Highway 276 to the Pennsylvania-New Jersey State line, and those in New York in and west of Wayne, Seneca, Schuyler, and Chemung Counties. The purpose of this filing is to eliminate the gateways of Whiting, Ind. and Avery, Ohio.



No. MC 106603 (Sub-No. E48), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building and roofing materials*, from St. Louis, Mo., to points in Delaware, Maryland, New Jersey, those in Virginia on, north, and east of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 250 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Virginia Highway 46, thence along Virginia Highway 46 to junction Virginia Highway 49, thence along Virginia Highway 49 to junction Virginia Highway 138, thence along Virginia Highway 138 to junction U.S. Highway 1, thence along U.S. Highway 1 to the Virginia-North Carolina State line, those in West Virginia north and east of a line beginning at the West Virginia-Ohio State line and extending along U.S. Highway 50 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 250, thence along U.S. Highway 250 to the West Virginia-Virginia State line, those in New York in and west of Wayne, Seneca, Schuyler, and Chemung Counties, those in Pennsylvania in and west of Tioga, Potter, Cameron, Clearfield, Cambria, and Somerset Counties, and the District of Columbia. The purpose of this filing is to eliminate the gateways of St. Louis, Mo.; Indiana; and the plantsite of Certain-teed Products Corporation at Avery, Ohio.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.75-28890 Filed 10-24-75; 8:45 am]

[Notice No. 895]

#### ASSIGNMENT OF HEARINGS

OCTOBER 22, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 38320 Sub-18, Central Motor Express, Inc., application dismissed.  
MC 19311 Sub-30, Central Transport, Inc., now assigned January 13, 1976 at Traverse, Michigan; will be held in Park Place Motor Inn, 300 E. State Street.  
MC 18088 Sub-55, Floyd & Beasley Transfer Company, Inc., continued to

January 19, 1975 (1 week) at Montgomery, Alabama, in Governor's House Motel, 2705 East South Boulevard.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.75-28891 Filed 10-24-75; 8:45 am]

#### FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 22, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before November 12, 1975.

FSA No. 43065—*Beet or Cane Sugar to Points in Texas*. Filed by Southwestern Freight Bureau, Agent, (No. B-563), for interested rail carriers. Rates on sugar, beet or cane, in carloads, as described in the application, from specified points in Minnesota and North Dakota, to specified points in Texas.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 411 to Southwestern Freight Bureau, Agent, tariff 1-F, I.C.C. No. 4875. Rates are published to become effective on November 13, 1975.

FSA No. 43066—*Single Empty Freight Trailers Between Points in Southwestern and Southern Territories and Points in Illinois, Southwestern and WTL Territories*. Filed by Southwestern Freight Bureau, Agent, (No. B-566), for interested rail carriers. Rates on single empty freight trailers, as described in the application, between points in southwestern territory, also Natchez, Mississippi and Memphis, Tennessee, on the one hand, and points in Illinois, southwestern, and western trunk-line territories, on the other. Grounds for relief—Carrier competition, short-line distance formula and grouping.

Tariffs—Supplement 92 to Southwestern Freight Bureau, Agent, tariff SW-74-G, I.C.C. No. 5127, and 4 other schedules named in the application. Rates are published to become effective on November 16, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.75-28893 Filed 10-24-75; 8:45 am]

[Notice No. 103]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

OCTOBER 28, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate

Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before November 17, 1975. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-PC-76008 By order of October 21, 1975, the Motor Carrier Board approved the transfer to Super Speed Delivery & Messenger Service, Inc., Totowa, New Jersey of Certificate No. MC 103486 (Sub-No. 1), issued October 11, 1961, to R. H. McDonald Company, A Corporation, Paterson, New Jersey, authorizing the transportation of general commodities, subject to normal restrictions, between specified counties in New Jersey, on the one hand, and on the other, New York, N.Y. Douglas Miller, 14 Front Street, Hempstead, New York, 11550, Attorney for applicants.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.75-28894 Filed 10-24-75; 8:45 am]

[Notice No. 121]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 22, 1975.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.



Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 106674 (Sub-No. 171TA) filed October 10, 1975. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Batting, wadding, or padding*, from Corbin, Ky., to Joliet, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G A F Corporation, 1361 Alps Road, Wayne, N.J. 07470. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 107403 (Sub-No. 952TA) filed October 10, 1975. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids*, in bulk, in tank vehicles, from Naphlet, Ark., to Baton Rouge, La., for 180 days. Supporting shipper: MacMillan Rign-Free Oil Co., Inc., Box 1623, El Dorado, Ark. 71730. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 108393 (Sub-No. 97TA) filed October 8, 1975. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Ave., Hinsdale, Ill. 60521. Applicant's representative: Eugene L. Cohn, One North LaSalle St., Chicago, Ill. 60521. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical and gas appliances, parts of electrical and gas appliances and equipment, materials and supplies* used in the manufacture, distribution and repair of electrical and gas appliances, between Evansville, Ind., on the one hand, and, on the other, Fulton, Henry, Lucas, Ottawa, Sandusky and Wood Counties, Ohio, under a continuing contract with Whirlpool Corporation, for 180 days. Supporting shipper: Whirlpool Corporation, Carl R. Anderson, Director of Corporate Traffic, Administrative Center, Benton Harbor, Mich. 49022. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 111729 (Sub-No. 580 TA) filed October 10, 1975. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Hensch, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copiers, typewriters, industrial and business machine parts and supplies*, restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day, between Syracuse, N.Y., and Cortland, N.Y., restricted to the transportation of traffic having an immediately prior or subsequent out-of-state movement for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) SCM Corporation, 299 Park Avenue, N.Y. 10017. (2) Monarch Machine Tool Company, Cortland, N.Y. (3) Pall Trinity Micro Corp., Cortland, N.Y. Send protests to: Anthony D. Gialmo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 118745 (Sub-No. 17TA), filed October 9, 1975. Applicant: JOHN PFROMMER, INC., Box 307, Douglassville, Pa. 19518. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime, limestone, and limestone products* (except in dump vehicles), from the Cedar Hollow Plant site of the Warner Company, at or near Devault, Pa., to points in Connecticut, Delaware, Maryland, Maine, New York, Virginia and the District of Columbia and (2) *Lime, limestone, and limestone products* (except in dump vehicles and flat-bed trailers, from the Cedar Hollow Plant site of the Warner Company, at or near Devault, Pa.), to points in New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden and Burlington Counties, N.J.). Restriction: Paragraphs 1 and 2 above are restricted to traffic moving under a continuing contract with the Warner Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Warner Company, 1721 Arch St., Philadelphia, Pa. 19103. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.

No. MC 119726 (Sub-No. 64TA) filed October 7, 1975. Applicant: N. A. B. TRUCKING CO., INC., 3220 Bluff Road, Indianapolis, Ind. 46217. Applicant's representative: James L. Beatty, Suite 1000, 130 East Washington St., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, caps and closures* therefore and *corrugated boxes*, from the plantsite of Universal Glass Products,

Star City Glass Division at Joliet, Ill., to Louisville and Frankfort, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Bottle Corporation, Manager of Distribution, One Decker Square, Bala Cynwyd, Pa. 19004. Send protests to: Frances Sterling, Interstate Commerce Commission, Federal Bldg., & U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 123115 (Sub-No. 16TA) filed October 6, 1975. Applicant: BEN PACKER, doing business as, PACKER TRANSPORTATION CO., 465 South Rock Blvd., Sparks, Nev. 89431. Applicant's representative: Ben Packer, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and plasterboard joint treatment products, and materials and supplies* used in the installation and application of such commodities, from Empire, Nev., to points in Montana and Utah, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Gypsum Company, 525 S. Virgil Ave., Los Angeles, Calif., 90004. Send protests to: Robert G. Harrison, District Supervisor, 203 Federal Bldg., 705 N. Plaza St., Carson City, Nev. 89701.

No. MC 126555 (Sub-No. 37TA), filed October 9, 1975. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, S. Dak. 57701. Applicant's representative: Barry C. Burnette, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial sand*, from points in Colorado, Wisconsin, Minnesota, and Illinois, to points in South Dakota, Colorado and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Merein Johnson Machine, Inc., Box 9, Webster, S. Dak. 57274. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 129459 (Sub-No. 12TA), filed October 10, 1975. Applicant: KEARNEY'S TRUCKING SERVICE, INC., Alternate U.S. Route 611, P.O. Box 264, Portland, Pa. 18351. Applicant's representative: Kenneth R. Davis, 121 South Main St., Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products* (except in bulk), from St. Clair, Mich., to points in Pennsylvania for the account of Diamond Crystal Salt Company, St. Clair, Mich., under a continuing contract with Diamond Crystal Salt Company, for 180 days. Supporting shipper: Diamond Crystal Salt Company, 916 South Riverside, St. Clair, Mich. 48079. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106.



No. MC 135082 (Sub-No. 22TA), filed October 14, 1975. Applicant: BURSCH TRUCKING, INC., doing business as ROADRUNNER TRUCKING, INC., P.O. Box 533, Thirteenth and Erie, Pueblo, Albuquerque, N. Mex. 87107. Applicant's representative: D. F. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, requiring special equipment for loading and unloading, and commodities incidental to the installation thereof (except commodities in bulk), from Pueblo and Trinidad, Colo., to points in Kansas and Nebraska, for 180 days. Supporting shipper: Summit Pressed Brick and Tile Company, P.O. Box 533, Thirteenth and Erie, Pueblo, Colo. 81002. Send protests to: John H. Kirkemo, District Supervisor, Interstate Commerce Commission, 1106 Federal Office Bldg., 517 Gold Ave., N.W., Albuquerque, N. Mex. 87101.

No. MC 136897 (Sub-No. 14TA), filed October 8, 1975. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, Phoenix, Ariz. 85041. Applicant's representative: Donald E. Fernaays, Suite 312, 4040 East McDowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Pueblo, Colo., to points in Arizona and California, under a continuing contract with CF&I Steel Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: CF&I Steel Corporation, P.O. Box 316, Pueblo, Colo. 81002. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

No. MC 139919 (Sub-No. 1TA), filed October 6, 1975. Applicant: JAMES YOUNG, INC., P.O. Box 509, 113 S. Line, Weatherford, Tex. 76086. Applicant's representative: James Young (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Freeport, Corpus Christi, and Galveston, Tex., New Orleans, La., Gulfport, Miss., and Mobile, Ala., through U.S. Customs ports in the states of Washington, Idaho, Montana, North Dakota and Minnesota, to Canadian Provinces of Alberta, British Columbia, Saskatchewan and Manitoba, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting ship-

pers: Macdonalds Consolidated Ltd., 840 Cambie St., Vancouver, B. C., V6B 4J2, Del Monte Banana Company, P.O. Box 011940, Miami, Fla. 33101. Macdonalds Consolidated Ltd., 14040 125th Ave., Edmonton, Alberta, Canada. Send protests to: H. C. Morrison, Sr., District Supervisor, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 141297TA (Correction), filed September 5, 1975, published in the FEDERAL REGISTER issue of September 19, 1975, and republished as corrected this issue. Applicant: UNITED INDUSTRIES, INC., 487 Parish St., Houston, Miss. 38851. Applicant's representative: W. DeWayne Griffin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture*, from Houston and Maben, Miss., to Miami, Fla.; Boston, Mass.; Detroit, Mich.; Minneapolis, Minn.; San Francisco, Calif.; San Antonio, Tex.; Fort Worth, Tex.; Oklahoma City, Okla.; and Kansas City, Kans., under a continuing contract or contracts with Maben Manufacturing, Inc., and Shannon Chair Company, for 180 days. Supporting shippers: Maben Manufacturing, Inc., 375 Oswalt Drive, Maben, Miss. 39750. Shannon Chair Company, 1st Ave., North, Houston, Miss. 38851. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201. The purpose of this republication is to add Houston in the territorial description.

No. MC 141357 (Sub-No. 1TA) (correction), filed September 25, 1975, published in the FEDERAL REGISTER issue of October 10, 1975, and republished as corrected this issue. Applicant: SHANUS, INC., 232 N. 1st St., Minneapolis, Minn. 55401. Applicant's representative: Gene P. Shanus (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fleshings, a by-product or residue of hides*, from South St. Paul, Minn. to Sioux City, Iowa and Green Bay, Wis., for 180 days. Supporting shipper: Twin City Hide, Inc., 491 Malden, S. St. Paul, Minn. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401. The purpose of this republication is to correct docket number 141357 Sub-No. 1TA, in lieu of MC 141357 which was previously published in error.

No. MC 141377 (Sub-No. 1TA), filed October 9, 1975. Applicant: THEO O. ELLIOTT, 5612 Heywood Road, Richmond, Va. 23224. Applicant's representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, Va. 23229. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicles parts; generators; machinery and machinery parts; road construction machinery and equipment* and (2) *Materials, equipment and supplies* (except commodities in bulk, in tank vehicles), used in the distribution and sales in (1) above, between York, Pa., on the one hand, and, on the other, Haymarket, Fredericksburg, Richmond, Fishersville, Charlottesville, Woods Mill, Chesapeake, Petersburg, Franklin, Hampton, Newport News and Williamsburg, Va., under a continuing contract with Virginia Tractor Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Virginia Tractor Company, Inc., 1901 Westwood Ave., Richmond, Va. 23261. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 10-502 Federal Bldg., 400 North 8th St., Richmond, Va. 23240.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.75-28895 Filed 10-24-75; 8:45 am]

#### MOTOR CARRIER TRANSFER PROCEEDINGS

[Notice No. 104]

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76157. By application filed October 16, 1975, SOUTHERN ILLINOIS TRANSPORTATION CORPORATION, 101 W. Vienna St., Anna, IL 62906, seeks temporary authority to lease the operating rights of WOMICK TRANSFER, INC., No. 5 Industrial Park, Carbondale, IL 62901, under section 210a(b). The transfer to SOUTHERN ILLINOIS TRANSPORTATION CORPORATION, of the operating rights of WOMICK TRANSFER, INC., is presently pending.

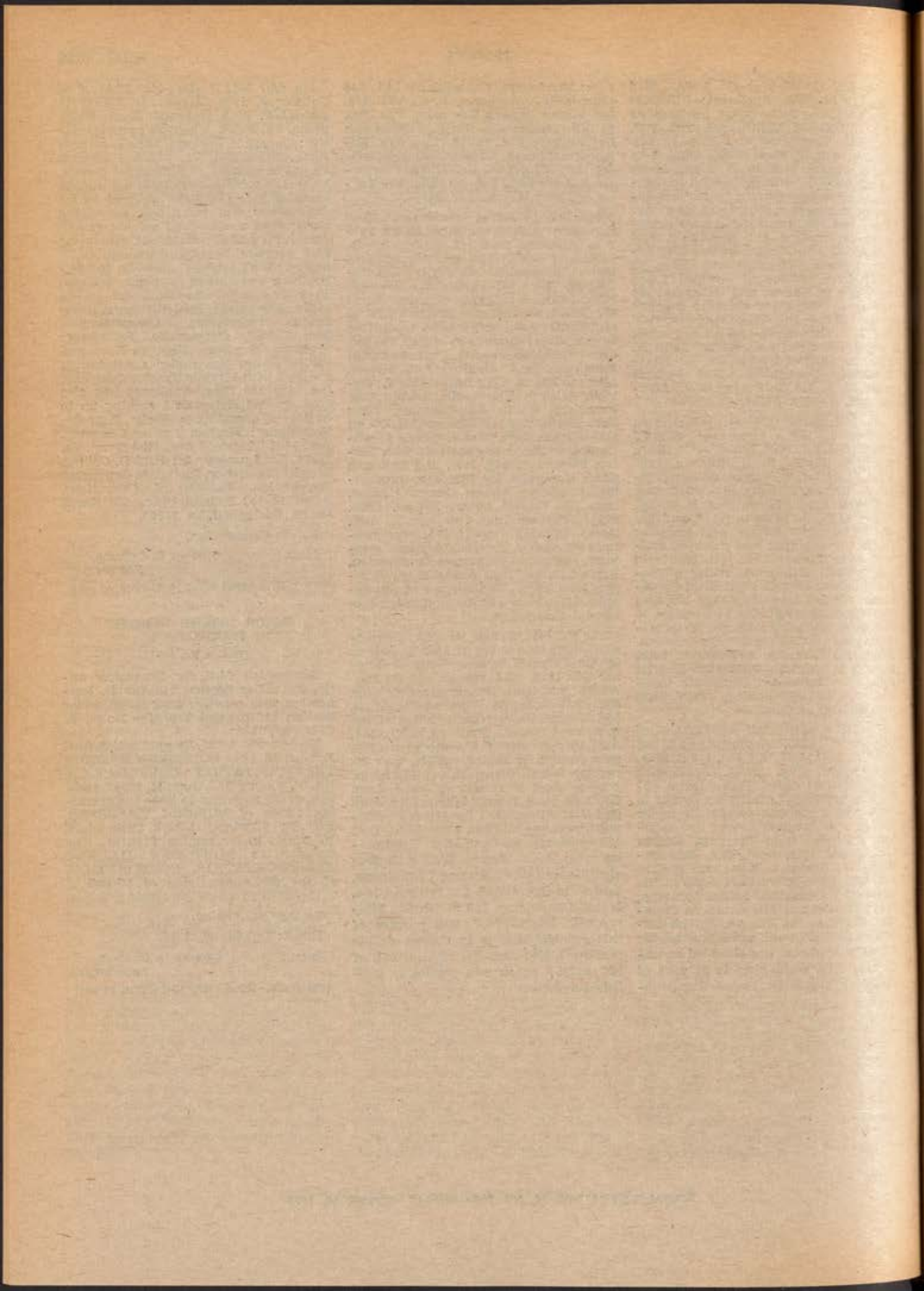
By the Commission.

Dated: October 28, 1975.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.75-28892 Filed 10-24-75; 8:45 am]







# **federal register**

TUESDAY, OCTOBER 28, 1975



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PART II:

DEPARTMENT OF  
HEALTH,  
EDUCATION, AND  
WELFARE

Public Health Service



HEALTH MAINTENANCE  
ORGANIZATIONS

Employees' Health Benefit Plans



## Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE,  
DEPARTMENT OF HEALTH, EDUCATION,  
AND WELFAREPART 110—HEALTH MAINTENANCE  
ORGANIZATIONS

## Employees' Health Benefits Plans

On February 12, 1975, there was published in the FEDERAL REGISTER (40 FR 6602-6605) a notice of proposed rulemaking setting out procedures for employers and health maintenance organizations to follow when implementing the Employees' Health Benefits Plans provisions authorized by Title XIII of the Public Health Service Act (42 U.S.C. 300e et seq.), as added by the Health Maintenance Organization Act of 1973, Pub. L. 93-222. Interested persons were given until March 31, 1975, to submit written comments or suggestions thereon. One hundred and sixty-one comments were received on or before March 31, 1975, and ten comments were received thereafter. All comments were considered in revising the regulations.

Comments requesting greater specificity were incorporated in the regulations wherever appropriate. Suggested changes in requirements which are mandated by statute were rejected. In addition to response to public comment, changes intended to clarify obligations of employers were introduced, some materials were reorganized, one section was deleted, and two new sections were added.

In the preamble to the notice of proposed rulemaking, specific attention was called to a major legal and policy provision of the proposed rules which dealt with the nature of the employer's obligation to offer membership in qualified health maintenance organizations to employees of that employer who are represented by a collective bargaining representative designated in accordance with Section 9(a) of the National Labor Relations Act (NLRA). Several well-thought-out and logically presented arguments on that issue were received. After serious evaluation of public comments on this issue, and after further consultation with the National Labor Relations Board and the Department of Labor, the Department has concluded, consistent with the overwhelming majority of the comments, that the employer's obligation to offer the option of health maintenance organization (HMO) membership to its represented employees is satisfied if the offer is made to such bargaining representative in accordance with the requirements of the NLRA. In such a case, if the employer and the representative agree that an HMO option shall be included in the health benefits plan offered to the represented employees, the offer of such option would then be made to such employees. The various portions of the regulations that relate to individual employee decisions have been revised appropriately to reflect the impact of this policy decision as it relates to those employees represented by a bargaining representative.

The other relevant comments received, the responses thereto, and the changes, if any, in the proposed regulations are summarized below:

1. Several comments suggested an appeals mechanism regarding the qualification status of an HMO. A notice of proposed rulemaking on appeals is forthcoming.

2. A new term, "bargaining representative," was added as § 110.801(b), and that term is used throughout the regulations.

3. Many comments asked for clarification of the term "employer." Suggestions that the definition include Taft-Hartley trust funds were rejected as inconsistent with the statute. Suggestions that universities and health care providers be exempt also were rejected as inconsistent with the statute's reference to the Fair Labor Standards Act as a basis for establishing an employer's obligation under the "Employees' Health Benefits Plans" provisions.

4. Several comments asked for clarification of the terms "employee" and "eligible employee" and particularly questioned whether retirees were employees. Guidelines will elaborate upon the concept that eligibility for participation in a health benefits plan is established under existing procedures, unaffected by these regulations. Retirees are not employees since they are not employed by an employer.

5. Several comments asked for clarification of the liability of the employer who has authorized a person or entity (e.g., a broker or a trust fund) to act as his designee for the purpose of offering the option of HMO membership. In such a situation, the ultimate liability for not making the HMO offer remains with the employer.

6. Several comments requested the inclusion of a definition of service area and the concept of marketing area. In response, a definition, "service area," appears in § 110.801(f). Since the term "marketing area" does not appear in the regulations, it has not been defined therein; however, as the concept is valuable for planning purposes, the term will be elaborated upon in guidelines.

7. Section 110.801(k), regarding the group enrollment period, has been clarified to indicate that each eligible employee must be given the opportunity, at least annually, to select among the alternatives included in the health benefits plan.

8. Several comments were received regarding the offer of a health benefits plan where no employer financial contribution is made. Since the employer's obligation is measured by the amount of his financial contribution for health benefits (see § 110.807), the employer is not required to offer an HMO option in this instance.

9. In response to several comments noting the omission of any reference to the Railway Labor Act, reference is made to both the National Labor Relations Act and the Railway Labor Act where appropriate.

10. Several comments noted the confusion generated by the definition of "existing contract." Three new definitions replace this term: § 110.801(m) defines "employer-employee contracts," § 110.801(n) defines a "health benefits contract," and § 110.801(l) defines "collective bargaining agreement."

11. A number of comments asked for clarification of the "place of residence" provision (see § 110.802(a)(4)) when individuals in a family reside in different geographic areas, and for clarification of the status of dependents. Guidelines soon to be issued will address these issues and establish that these issues are to be resolved between the HMO, the employer, and the individual seeking residency determination.

12. Section 110.802(b) has been revised in response to the suggestions and rationale submitted by many commenters. With respect to a collective bargaining agreement, § 110.802(b) requires that the HMO request be received 90 days in advance of the expiration or renewal date of the collective bargaining agreement. The regulation now provides that if a collective bargaining agreement has provision for changing wages, hours, or conditions of employment during its term, it shall be treated as renewable, for purposes of this subpart, at the time so provided. Section 110.802(b) takes recognition of the additional time needed to prepare brochures, design enrollment and coverage change forms, arrange corresponding payroll deduction accounts and procedures, plan for a communication strategy, and allow for enrollment. Accordingly, this section now requires that the request for inclusion in the health benefits plan be received at least 180 days prior to the expiration or renewal date of an employer-employee contract or a health benefits contract. In cases where the health benefits available to an employee are governed by both a collective bargaining agreement and a health benefits contract, the HMO's request for inclusion must satisfy both the 90-day and 180-day requirements.

13. Several comments requested that § 110.802(b) require the HMO to provide additional information to the employer or its designee. The regulations now contain new requirements for: identification of the health professionals providing care; identification of ownership and management of the HMO; copies of current financial statements; and a statement of capacity to enroll new members and of whether there is any likelihood of future limitations on enrollment.

14. Section 110.803(e), which provides for an annual group enrollment period during which eligible employees could enroll in the alternative of their choice or transfer from one alternative to another without application of waiting periods or exclusions or limitations based on health status, was the subject of many comments. Although this requirement has been maintained in the final regulations, it has been clarified to indicate that only enrollment in a qualified HMO and transfer from a qualified HMO to



another alternative within the health benefits plan are subject to such requirement, and a provision has been added to allow an opportunity for the HMO and the other carriers in the health benefits plan to coordinate benefits and coverage at the official time of transfer associated with the group enrollment period.

15. Many persons commented on the requirement for an affirmative written selection at the time the first HMO is offered as an alternative. The suggestion that it also apply to subsequent offerings was rejected as impractical. Also rejected were suggestions for deletion of this requirement as impossible to administer. The regulations do not require that the employer do more than make the option of membership, with an affirmative written selection requirement, available to employees. The consequence of an employee's failure to make any such selection is a matter between the employer and the employee.

16. A few comments noted the inequity in mandating the opportunity for a transfer from an HMO to an alternative plan if the HMO ceases operation, while not mandating such opportunity if the alternative plan ceases operation. The regulations now require the opportunity for transfer in both situations.

17. Several comments requested clarification on the use of the employer's premises for HMO solicitation. Subject to the minimal requirements of § 110.803(h), the extent to which the employer's facilities are to be used is a matter for negotiation between the HMO and the employer, as will be explained more fully in guidelines soon to be issued.

18. Several comments pointed out the need for employer approval of marketing materials consistent with requirements of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406). Other comments suggested that an employer be required to act upon an HMO's request for inclusion in a timely manner. The regulations incorporate both of these suggestions.

19. Many persons commented on proposed § 110.805, relating to the employer's contribution for HMO options included in a health benefits plan. Most respondents indicated confusion. The use of the term "no less favorable" in lieu of the statutory language "shall not be required to pay more" was criticized. The methods for determining subsequent year costs were cited as unworkable. Concern was expressed about a situation where the HMO's health benefits differ from the indemnity plan benefits. Proposed § 110.805 has been substantially rewritten and now, as § 110.807, clarifies that an employer shall not be required to pay more for health benefits as a result of offering the HMO alternative than it would otherwise be required to pay for health benefits by an existing collective bargaining agreement or other employer-employee contract. Section 110.807(b)(2) allows for exclusion of those portions of the employer's contribution allocable to benefits not offered by the HMO on a prepaid basis and for

which eligible employees will continue to be covered notwithstanding their selection of membership in the HMO. Sections 110.807 (e) and (f) describe the basis for computation of the employer's contribution in the absence of a collective bargaining agreement or legally enforceable employer-employee contract fixing such contribution. Factors to be taken into consideration for calculating contributions made prospectively and retrospectively are listed in § 110.807(f).

20. Many comments urged the deletion of proposed § 110.806, which would have required that the employer offer the employee payroll deduction for collecting the employee's share of the HMO premium payments. Others suggested that the means of premium payment be left to collective bargaining or to the employer and the HMO. Proposed § 110.806 was deleted, and the revised regulations are silent on this issue, as it was felt that such matters should be left to collective bargaining and to negotiation between the employer and the HMO.

There is hereby established in 42 CFR Part 110, Subpart H, "Employees' Health Benefits Plans," as follows:

*Effective date.* This subpart becomes effective on November 28, 1975.

*Dated:* September 29, 1975.

THEODORE COOPER,  
Assistant Secretary for Health.

Approved: October 20, 1975.

DAVID MATHEWS,  
Secretary.

Subpart H—Employees' Health Benefits Plans

- Sec. 110.801 Definitions.
- 110.802 Applicability.
- 110.803 Offer of health maintenance organization alternatives to employees.
- 110.804 Timing of the health maintenance organization alternative offer to employees.
- 110.805 Employees to whom the health maintenance organization alternative must be offered.
- 110.806 Copayment levels and supplemental health services determination.
- 110.807 Employer contributions for health maintenance organization alternative.
- 110.808 Relationship of section 1310(a) of the Public Health Service Act to the National Labor Relations Act as amended and the Railway Labor Act, as amended.

*AUTHORITY:* Sec. 215, 58 Stat. 690, (42 U.S.C. 216); sec. 1301-1315, 87 Stat. 914-933 (42 U.S.C. 300e-300e-14).

Subpart H—Employees' Health Benefits Plans

§ 110.801 Definitions.

In addition to the terms defined in § 110.101 and § 110.602 of this Part, as used in this subpart:

- (a) "Employer" shall have the same meaning as that given such term in Section 3(d) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 203).
- (b) "Bargaining representative" means a representative designated or selected

for the purposes of collective bargaining under the National Labor Relations Act, as amended, (29 U.S.C. 151 *et seq.*) or under the Railway Labor Act, as amended, (45 U.S.C. 151 *et seq.*).

(c) "Employee" means any individual employed by an employer, whether on a full- or part-time basis.

(d) "Eligible employee" means an employee who meets the terms and conditions established by an employer or its designee to participate in a health benefits plan.

(e) "Designee" means any person or entity authorized to act on behalf of an employer or group of employers to offer the option of membership in a qualified health maintenance organization to the employer's eligible employees.

(f) "Service area" means the particular geographic area described by the health maintenance organization as its service area as part of its application for a determination that it is a qualified health maintenance organization (see § 110.604(b)(1)(xix) of this part), or such other area defined by the health maintenance organization and found by the Secretary to be the area within which basic and supplemental health services are available and accessible to members as required by section 1301(b)(4) of the Act and § 110.107 of this part.

(g) "Health benefits" means health benefits and services.

(h) "Health benefits plan" means any arrangement for the provision of, or payment for, any of the basic and supplemental health benefits described in § 110.101(b) and (c) of this part offered to eligible employees, or to such employees and their eligible dependents, by or on behalf of an employer.

(i) "Qualified health maintenance organization" means an entity which has been found by the Secretary to meet the requirements of Title XIII of the Act and the applicable regulations of this part.

(j) "To offer a health benefits plan" means to make participation in a health benefits plan available to eligible employees, or to such employees and their eligible dependents, whether the financial contribution by the employer on behalf of such employees is made directly or indirectly (e.g., through payments on any basis into a health and welfare trust fund).

(k) "Group enrollment period" means the period of at least 10 working days each calendar year during which each eligible employee is given the opportunity to select among the alternatives included in a health benefits plan.

(l) "Collective bargaining agreement" means an agreement entered into between an employer and the bargaining representative of its employees, and includes such agreements entered into on behalf of groups of employers with the bargaining representative of their employees in accordance with the provisions of the National Labor Relations Act, as amended, (29 U.S.C. 151 *et seq.*) or the Railway Labor Act, as amended, (45 U.S.C. 151 *et seq.*).



(m) "Employer-employee contract" means a legally enforceable agreement (other than a collective bargaining agreement) between an employer and its employees for the provision of, or payment for, health benefits for its employees, or for such employees and their eligible dependents.

(n) "Health benefits contract" means a contract or other agreement between an employer, or its designee, and a carrier for the provision of, or payment for, health benefits to eligible employees or to such eligible employees and their eligible dependents.

(o) "Carrier" means a voluntary association, corporation, partnership, or other non-governmental organization which is engaged in providing, paying for, or reimbursing all or part of the cost of health benefits under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier.

#### § 110.802 Applicability.

(a) The regulations of this subpart apply in each calendar year to each employer which:

(1) Was required during any calendar quarter of the previous calendar year to pay its employees the minimum wage specified by Section 6 of the Fair Labor Standards Act of 1938 (or would have been required to pay its employees such wage but for section 13(a) of such Act);

(2) During such calendar quarter employed an average number of not less than 25 employees;

(3) Offers, or on whose behalf there is offered, in the calendar year beginning after such calendar quarter a health benefits plan to its eligible employees; and

(4) Has received a written request for inclusion in the employer's health benefits plan from one or more qualified health maintenance organizations which operates in an area in which any eligible employee resides.

(b) For an offer to be effective under paragraph (a) (4) of this section, the request for inclusion in the health benefits plan shall be received by the employer at least 180 days before the expiration or renewal date of a health benefits contract or employer-employee contract and at least 90 days before the expiration date of a collective bargaining agreement, unless otherwise agreed to by the health maintenance organization and the employer or its designee. For employers with a collective bargaining agreement that is automatically renewable and without fixed term, or is for a fixed term but has provisions for periodically changing the wages, hours, or conditions of employment, such agreement shall be treated as renewable, for purposes of this subpart, on the anniversary date of the collective bargaining agreement if it has no fixed term, or at such other times not less than annually, as may be provided by such agreement for discussion of

changes in its provision, whichever is earlier. Additionally, the request for inclusion in the health benefits plan shall:

(1) Be in writing and directed specifically to a managing employer official at the employer site being solicited or to the employer's designee;

(2) Provide evidence that the health maintenance organization has been determined to be qualified by the Secretary under subpart F of this part;

(3) Indicate whether the services of health professionals which are provided as basic health services are provided through health professionals who are members of (i) the staff of the organization or a medical group (or groups), or (ii) an individual practice association (or associations);

(4) Provide a current financial report;

(5) Describe the health maintenance organization's service area or the proposed service area, and give the dates basic and supplemental health services will be provided in such area or areas;

(6) Describe the location of facilities where, and give the dates and hours of operation when, health services are provided or will be provided at such facilities;

(7) Provide proposed contracts between the health maintenance organization and the employer, or its designee;

(8) Include sample copies of marketing brochures and membership literature;

(9) Identify the staff and ownership of the health maintenance organization and the physicians who will provide health services for the organization;

(10) State the payment for basic and supplemental health services to be required for various categories of memberships; and

(11) State the health maintenance organization's capacity to enroll new members and the likelihood of any future limitations on such enrollment.

#### § 110.803 Offer of health maintenance organization alternative to employees.

(a) An employer subject to § 110.802 shall, at the time a health benefits plan is offered to its eligible employees or to such employees and their eligible dependents, include in such plan the option of membership in qualified health maintenance organizations in accordance with the provisions of this section.

(b) If more than one qualified health maintenance organization which provides services in an area in which eligible employees of such employer reside have requested inclusion in the health benefits plan as provided by § 110.802, and

(1) One or more of such organizations provides basic health services through professionals who are members of the staff of the organization or of a medical group (or groups); and

(2) One or more of such organizations provides such services through an individual practice association (or associations), then, of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to this section, at least one

shall be an organization which provides basic health services as described in paragraph (b) (1) of this section and at least one shall be an organization which provides basic health services as described in paragraph (b) (2) of this section.

(c) An employer subject to this subpart shall offer the option of membership in additional qualified health maintenance organizations to its eligible employees, described in paragraphs (c) (1) and (2) of this paragraph, if such additional qualified health maintenance organizations demonstrate that their service areas include the place of residence of eligible employees:

(1) Who do not reside in the service area of qualified health maintenance organizations already included in the employer's health benefits plans; or

(2) To whom membership in qualified health maintenance organizations already included in the health benefits plan is not available because such organizations have closed their enrollment of additional eligible employees of such employer.

(d) An employer subject to this subpart is not required to include in the health benefits plan offered to eligible employees the option of membership in the specific qualified health maintenance organization which initiated the request for inclusion in the health benefits plan: *Provided*, That the employer or its designee selects, in a manner consistent with this section, one or more other qualified health maintenance organizations that may not have made a request within the time limit of § 110.802 (a) (4) but are willing to be included: *Provided further*, That such latter health maintenance organizations are of the same type (i.e., the type described in paragraph (b) (1) of this section or the type described in paragraph (b) (2) of this section) and serve, or will serve at a minimum, the same area (in which the employer's employees reside) individually or collectively as the health maintenance organization which submitted the timely request.

(e) An employer or its designee including the option of membership in a qualified health maintenance organization pursuant to this subpart as part of the health benefits plan offered to its eligible employees shall provide for a group enrollment period during which eligible employees may enroll in any qualified health maintenance organization or may transfer from a qualified health maintenance organization to any other alternative without application of waiting periods or exclusions or limitations based on health status as conditions of enrollment or transfer. Nothing in this subpart shall preclude the uniform application of coordination of benefit arrangements between the health maintenance organizations and the other carriers which are included in the health benefits plan at the official transfer time of the group enrollment period.

(f) During the group enrollment period in which the alternative of mem-



bership in a qualified health maintenance organization is offered to a group of employees for the first time, the health benefits plan alternative shall be presented to each eligible employee with the requirement that an affirmative written selection be made among the different alternatives included in the health benefits plan. In subsequent group enrollment periods, a selection among such alternatives shall be made available; however, such written selection is required only when the eligible employee elects to change from one alternative to another.

(g) In addition to the group enrollment period, the opportunity to select among different alternatives within a health benefits plan shall be made available to new employees, employees who have been transferred or otherwise changed their place of residence resulting in eligibility for membership in a qualified health maintenance organization for which they were not previously eligible by place of residence, or eligible employees covered by any alternative which ceases operation. At the time such employees are eligible to participate in the health benefits plan, such opportunity shall be made available without waiting periods or any exclusions or limitations based on health status as conditions of enrollment or transfer, and shall be presented to such employees with the requirement that they make an affirmative written selection among the different alternatives included in the health benefits plan.

(h) The employer shall provide each qualified health maintenance organization which is included in its health benefits plan with fair and reasonable access, not less than 30 days prior to and during group enrollment periods, to employees referred to in § 110.805, for purposes of presenting and explaining its program in accordance with § 110.108(c) of this part. This access shall include, at a minimum, the opportunity for distribution of educational literature, brochures, announcements of meetings, and other relevant printed materials meeting the requirements of § 110.108(c) to each such employee. The employer or its designee shall be given the opportunity to review, revise, and approve such materials before distribution. Revisions shall be limited to correcting factual errors, misleading or ambiguous statements, unless otherwise agreed to by the health maintenance organization and the employer or its designee, or as may be required by law. The employer or its designee shall complete promptly any such revisions in the offering material so as not to delay or otherwise interfere with the group enrollment period. In no event shall the access to eligible employees provided to such qualified health maintenance organizations be more restrictive or less favorable than that provided other offerers of alternatives included in the health benefits plan, whether or not the representatives of the other alternatives elect to avail themselves of such access.

**§ 110.804 Timing of the health maintenance organization alternative offer to employees.**

The employer or its designee shall offer eligible employees the option of membership in a qualified health maintenance organization at the earliest date permitted under the terms of the existing contracts. Should such health maintenance organization's request for inclusion in a health benefits plan be received at a time when the existing collective bargaining agreement, employer-employee contracts, or contract for health benefits does not provide for including a qualified health maintenance organization in the health benefits plan, the inclusion of the health maintenance organization in the health benefits plan shall occur at the time that new contracts are offered or a new contract negotiated and shall be consistent with the following paragraphs:

(a) If an existing collective bargaining agreement is in force at the time the request for inclusion in the health benefits plan is made by the health maintenance organization to the employer or its designee, the request shall be raised in the collective bargaining process when a new contract is negotiated or if such agreement is automatically renewable, on its anniversary date or at such other times as may be provided by such agreement for discussion of changes in its provisions, or in accordance with a specific process to review health maintenance organization offers.

(b) In the absence of a collective bargaining agreement, if there is an existing employer-employee contract, health benefits contract or any other arrangement which provides for a health benefits plan, such option shall be included in any health benefits plan offered to eligible employees when the existing contract is renewed, or when a new health benefits contract or other arrangement is negotiated. If an employer-employee contract or health benefits contract has no fixed term or has a term in excess of one year, such contract shall be treated as renewable on the earliest annual anniversary date of the contract. If the employer is self-insured, the budget year shall be treated as the term of the existing contract.

(c) For employers with multiple contracts or other arrangements included as part of the health benefits plan which may have different expiration or renewal dates, the offer shall be included for each contract or arrangement at the time such contract or arrangement is renewed or reissued or the benefits provided under such contract or arrangement are offered to employees.

**§ 110.805 Employees to whom the health maintenance organization alternative must be offered.**

Each employer subject to this subpart, or its designee, shall offer the option of membership in a qualified health maintenance organization to each eligible employee, or to such employees and their eligible dependents, who reside within

the service area of the qualified health maintenance organization being offered.

(a) For those employees of an employer represented by a bargaining representative, the offer of the health maintenance organization alternative is subject to the collective bargaining process.

(b) For those employees not represented by a bargaining representative, the offer of the health maintenance organization alternative shall be made directly to such employees in accordance with this subpart.

**§ 110.806 Copayment levels and supplemental health services determination.**

Each eligible employee's election of a copayment level and of supplemental health services to be contracted for is to be made as follows:

(a) For those employees of an employer represented by a bargaining representative, the selection of supplemental health services and copayment levels is subject to the collective bargaining process.

(b) For those employees not represented by a bargaining representative, the selection of copayment levels and supplemental health services to be offered to eligible employees shall be made through the decision-making process that exists with respect to the existing health benefits plan.

**§ 110.807 Employer contributions for health maintenance organization alternative.**

(a) The health maintenance organization alternative shall be included in the health benefits plan on terms no less favorable, in regard to an employer's monetary contribution or designee's cost for health benefits, than those on which the other alternatives in the health benefits plan are included: *Provided*, That the employer shall not be required to pay more for health benefits as a result of offering the option of membership in qualified health maintenance organizations than such employer would otherwise be required to pay for health benefits by a collective bargaining agreement or other employer-employee contract in effect at the time that the health maintenance organization is included in the health benefits plans.

(b) The amount of the employer's or designee's contribution shall be determined in a manner consistent with this section.

(1) Administrative expenses of the employer, or its designee, incurred in connection with offering any alternative in the health benefits plan shall not be considered in determining the amount of the employer's contribution to the health maintenance organization.

(2) The amount of the employer's contribution or designee's costs may exclude such portions of the contribution allocable to benefits (e.g., life insurance or insurance for supplemental health benefits) for which eligible employees or such employees and their eligible dependents will continue to be covered notwithstanding selection of membership in the health



maintenance organization, and which benefits are not offered on a prepaid basis by the health maintenance organization to such employer's employees.

(c) Where the specific amount of the employer's contribution for health benefits is fixed by a collective bargaining agreement, by an employer-employee contract, or by law, the amount so determined shall constitute the employer's obligation for contribution toward the health maintenance organization dues or premiums on behalf of eligible employees or such employees and their eligible dependents.

(d) Where the employer's contribution for health benefits is determined by a collective bargaining agreement, but the amount so fixed includes contribution for benefits in addition to health benefits, the employer shall determine, or shall instruct its designee to determine, the portion of such employer's contribution applicable to health benefits in accordance with this section.

(e) In the absence of a collective bargaining agreement or employer-employee contract specifying contribution for health benefits, the employer's contribution to the health maintenance organization on behalf of eligible employees or such employees and their eligible dependents, unless otherwise agreed to by the health maintenance organization and the employer or its designee, shall be based upon the total costs of such health benefits offered to the employees for the most recent period for which experience is available, reduced by such amounts identified in accordance with paragraph (b) (2) of this section. Such cost determination shall be consistent with paragraphs (a) and (f) of this section.

(f) For purposes of this section, an employer's contribution or its designee's cost for the alternatives within the health benefits plan other than the qualified health maintenance organization option shall be determined in the following manner, unless otherwise agreed to

by the health maintenance organization and the employer or its designee:

(1) If the employer's contribution or its designee's cost for health benefits with respect to the non-health maintenance organization alternative is determined solely on the basis of a fixed prospective amount (not subject to retrospective adjustment), contributed by the employer or paid by the designee, then the prospective payment made by or on behalf of the employer to the non-health maintenance organization alternative for the provision of health benefits to eligible employees or to such employees and their eligible dependents under such alternatives shall be used as the basis for determining the employer's obligation for contribution toward the health maintenance organization dues or premiums.

(2) If the employer's contribution or its designee's cost for health benefits with respect to the non-health maintenance organization alternative is determined by a contract with a carrier on any form of retrospective experience rating basis, any billing contract arrangement, any plan of self insurance, any direct service plan provided by the employer or its designee, or any other form of health benefits plan wherein the actual cost to the employer or its designee is determined retrospectively, an estimated cost shall be used to determine the obligation for contribution toward the health maintenance organization's dues or premiums. Such estimated cost shall be determined by the employer or its designee based on consideration of the following factors:

(i) The employer's or designee's cost experience for non-health maintenance organization alternative with respect to the most recent benefit period for which such experience is available at the time when the employer's prospective contribution or designee's obligation to the health maintenance organization is to be determined;

(ii) A reasonable allowance for inflation based on historical cost trends and anticipated future cost increases;

(iii) Where applicable and consistently applied, cost differences experienced in the provision of health benefits for separate regional or local areas of employment;

(iv) Anticipated changes in the composition and experience of the covered population actually being served by the non-health maintenance organization alternative attributable to the shift of enrollment to the health maintenance organization;

(v) Any changes in health benefits to be provided by non-health maintenance alternatives during the period for which the estimated contribution is to be determined; and

(vi) Any other anticipated material change in the experience rating basis under any health benefits contract for the benefit period.

(g) An employer or its designee shall retain for at least three years the data used to compute its level of contribution to the alternatives included in the health benefits plan. Such data may be reviewed by the Secretary either on his own initiative or in response to a request which sets forth reasonable grounds supporting such a request, to determine whether the level of contributions determined by the employer complies with this subpart.

§ 110.803 Relationship of section 1310 (a) of the Public Health Service Act to the National Labor Relations Act as amended and the Railway Labor Act, as amended.

The obligation of an employer subject to this subpart to include the option of membership in a qualified health maintenance organization in any health benefits plan offered to its eligible employees shall be carried out consistently with the obligations imposed on such employer under the National Labor Relations Act and the Railway Labor Act.

[FR Doc. 75-28696 Filed 10-24-75; 8:45 am]



# **federal register**

TUESDAY, OCTOBER 28, 1975



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PART III:

## **DEPARTMENT OF TRANSPORTATION**

**Federal Aviation  
Administration**



### **ADVISORY CIRCULAR CHECKLIST AND STATUS OF FAA REGULATIONS**



# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

[AC 00-2FF—Effective September 15, 1975]

### ADVISORY CIRCULAR CHECKLIST AND STATUS OF FEDERAL AVIATION REGU- LATIONS

1. *Purpose.* This notice contains the revised checklist of current FAA advisory circulars and the status of Federal Aviation Regulations as of September 15, 1975.

2. *Explanation.* The FAA issues advisory circulars to inform the aviation public in a systematic way of nonregulatory material of interest. Unless incorporated into a regulation by reference, the contents of an advisory circular are not binding on the public. Advisory circulars are issued in a numbered-subject system corresponding to the subject areas of the Federal Aviation Regulations (14 CFR Ch. I). This checklist is issued triannually to list all current advisory circulars and also includes a checklist showing the status of the Federal Aviation Regulations.

#### 3. The Circular Numbering System.

a. *General.* The advisory circular numbers relate to the FAR subchapter titles and correspond to the Parts, and when appropriate, to the specific sections of the Federal Aviation Regulations. Circulars of a general nature bear a number corresponding to the number of the general subject (subchapter) in the FAR's. A general subject number is used only when a circular covers more than one Part.

b. *Subject numbers.* The general subject matter areas and related numbers are as follows:

#### Subject Number and Subject Matter

|     |                                                       |
|-----|-------------------------------------------------------|
| 00  | General.                                              |
| 10  | Procedural.                                           |
| 20  | Aircraft.                                             |
| 60  | Airmen.                                               |
| 70  | Airspace.                                             |
| 90  | Air Traffic Control and General Operations.           |
| 120 | Air Carrier and Commercial Operators and Helicopters. |
| 140 | Schools and Other Certified Agencies.                 |
| 150 | Airports.                                             |
| 170 | Air Navigational Facilities.                          |
| 180 | Administrative.                                       |
| 210 | Flight Information.                                   |

c. *Breakdown of subject numbers.* When the volume of circulars in a general series warrants a subsubject breakdown, the general number is followed by a slash and a subsubject number. Material in the 150 series, Airports, is issued under the following subsubjects:

#### Number and Subject

|          |                                                                       |
|----------|-----------------------------------------------------------------------|
| 150/1900 | Defense Readiness Program.                                            |
| 150/4000 | Resource Management.                                                  |
| 150/5000 | Airport Planning.                                                     |
| 150/5100 | Federal-aid Airport Program.                                          |
| 150/5150 | Surplus Airport Property Conveyance Programs.                         |
| 150/5190 | Airport Compliance Program.                                           |
| 150/5200 | Airport Safety—General.                                               |
| 150/5210 | Airport Safety Operations (Recommended Training, Standards, Manning). |

|          |                                                       |
|----------|-------------------------------------------------------|
| 150/5220 | Airport Safety Equipment and Facilities.              |
| 150/5230 | Airport Ground Safety System.                         |
| 150/5240 | Civil Airports Emergency Preparedness.                |
| 150/5300 | Design, Construction, and Maintenance—General.        |
| 150/5320 | Airport Design.                                       |
| 150/5325 | Influence of Aircraft Performance on Aircraft Design. |
| 150/5335 | Runway, Taxiway, and Apron Characteristics.           |
| 150/5340 | Airport Visual Aids.                                  |
| 150/5345 | Airport Lighting Equipment.                           |
| 150/5360 | Airport Buildings.                                    |
| 150/5370 | Airport Construction.                                 |
| 150/5380 | Airport Maintenance.                                  |
| 150/5390 | Heliports.                                            |
| 150/5900 | Planning Grant for Airports.                          |

d. *Individual circular identification numbers.* Each circular has a subject number followed by a dash and a sequential number identifying the individual circular. This sequential number is not used again in the same subject series. Revised circulars have a letter A, B, C, etc., after the sequential number to show complete revisions. Changes to circulars have CH 1, CH 2, CH 3, etc., after the identification number on pages that have been changed. The date on a revised page is changed to the effective date of the change.

#### 4. The Advisory Circular Checklist.

a. *General.* Each circular issued is listed numerically within its subject-number breakdown. The identification number (AC 120-1), the change number of the latest change, if any, to the right of the identification number, the title, and the effective date for each circular are shown. A brief explanation of the contents is given for each listing.

b. *Omitted numbers.* In some series, sequential numbers are missing. These numbers were assigned to advisory circulars still in preparation which will be issued later or were assigned to advisory circulars that have been canceled.

c. *Free and sales circulars.* This checklist contains advisory circulars that are for sale as well as those distributed free of charge by the Federal Aviation Administration. A list of circulars sold by the Superintendent of Documents is shown at the end of the numerical list of AC's. Please use care when ordering circulars to ensure that they are ordered from the proper source.

d. *Internal directives for sale.* A list of certain internal directives sold by the Superintendent of Documents is shown at the end of the checklist. These documents are not identified by advisory circular numbers, but have their own directive numbers.

#### 5. How to get circulars.

a. When a price is listed after the description of a circular, it means that this circular is for sale by the Superintendent of Documents. When (Sub.) is included with the price, the advisory circular is available on a subscription basis only. After your subscription has been entered by the Superintendent of Documents, supplements or changes to the basic document will be provided automatically at no additional charge until the subscription expires. When no

price is given, the circular is distributed free of charge by FAA.

b. Request free advisory circulars shown without an indicated price from:

U.S. Department of Transportation, Publications Section TAD 443.1, Washington, D.C. 20590.

c. Persons who want to be placed on FAA's mailing list for future circulars should write to:

U.S. Department of Transportation, Distribution Unit, TAD 482.3, Washington, D.C. 20590.

NOTE: Be sure to identify the subject matter numbers and titles shown in paragraph 3b because separate mailing lists are maintained for each advisory circular subject series. Checklists and circulars issued in the General series will be distributed to every addressee on each of the subject series lists. Persons requesting more than one subject classification may receive more than one copy of related circulars and this checklist because they will be included on more than one mailing list. Persons already on the distribution list for AC's will automatically receive related circulars.

d. Order advisory circulars and internal directives with purchase price given from:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402;

or from any of the following bookstores located throughout the United States:

GPO Bookstore, Room 102A, 2121 Building, 2121 Eighth Avenue North, Birmingham, AL 35203.

GPO Bookstore, Federal Building, Room 1015, 300 North Los Angeles Street, Los Angeles, CA 90012.

GPO Bookstore, Federal Building, Room 1023, 450 Golden Gate Avenue, San Francisco, CA 94102.

GPO Bookstore, Federal Building, U.S. Courthouse, Room 1421, 1981 Stout Street, Denver, CO 80202.

GPO Bookstore, P.O. Box 713, Pueblo, CO 81002.

GPO Bookstore, Federal Building, Room 158, 400 West Bay Street, Jacksonville, FLA 32202.

GPO Bookstore, Room 100, Federal Building, 275 Peachtree Street NE., Atlanta, GA 30303.

GPO Bookstore, Everett McKinley Dirksen Building, Room 1463, 14th Floor, 219 South Dearborn Street, Chicago, IL 60604.

GPO Bookstore, Room G25, John F. Kennedy Federal Building, Sudbury Street, Boston, MA 02203.

GPO Bookstore, Federal Office Building, Room 229, 231 W. Lafayette Blvd., Detroit, MI 48226.

GPO Bookstore, Federal Building, Room 144, 601 East 12th Street, Kansas City, MO 64106.

GPO Bookstore, Room 1356, 26 Federal Plaza, New York, NY 10007.

GPO Bookstore, Federal Office Building, 201 Cleveland Avenue SW., Canton, OH 44702.

GPO Bookstore, Federal Office Building, Room 171, 1240 East Ninth Street, Cleveland, OH 44199.

GPO Bookstore, Federal Office Bldg., Room 1214, 600 Arch St. Philadelphia, PA 19106.

GPO Bookstore, Room 1C46, Federal Building, U.S. Courthouse, 1100 Commerce Street, Dallas, TX 75202.

GPO Bookstore, Federal Building, Room 190, 915 Second Ave., Seattle, WA 98174.



GPO Bookstore, Federal Building, Room 190, 517 E. Wisconsin Avenue, Milwaukee, WI 53202.

GPO Bookstore, 710 North Capitol Street NW., Washington, D.C. 20402.

GPO Bookstore (U.S. Department of Commerce), 14th and Constitution Avenue NW., Washington, D.C. 20230.

GPO Bookstore (USIA), 1776 Pennsylvania Avenue NW., Washington, D.C. 20547.

GPO Bookstore (U.S. Department of State), 21st and C Streets NW., Washington, D.C. 20520.

GPO Bookstore (Pentagon), Main Concourse, south end, Washington, D.C. 20310.

GPO Bookstore, James Forrestal Building, Room 1-J-001, 1000 Independence Avenue SW., Washington, D.C. 20407.

Send check or money order with your order to the Superintendent of Documents. Make the check or money order payable to the Superintendent of Documents in the amounts indicated in the list. Orders for mailing to foreign countries should include an additional 25 percent of the total price to cover handling. No c.o.d. orders are accepted.

6. *Reproduction of Advisory Circulars.* Advisory circulars may be reproduced in their entirety or in part without permission from the Federal Aviation Administration.

7. *Cancellations.* The following advisory circulars are canceled:

AC 00-2EE Advisory Circular Checklist, 5-15-75. Canceled by AC 00-2FF Advisory Circular Checklist, 9-15-75.

AC 00-23D Near Midair Collision Reporting, 5-19-75. Canceled.

AC 20-6W U.S. Civil Aircraft Register, June 1974. Canceled by AC 20-6X U.S. Civil Aircraft Register, January 1975.

AC 20-7L General Aviation Inspection Aids, August 1974. Canceled by AC 20-7M General Aviation Inspection Aids, August 1975.

AC 20-33A Technical Information Regarding Civil Aeronautics Manuals 1, 3, 4a, 4b, 5, 6, 7, 9, 13, and 14, 3-7-75. Canceled by AC 20-33B Technical Information Regarding Civil Aeronautics Manuals 1, 3, 4a, 4b, 5, 6, 7, 8, 9, 13, and 14, 5-1-75.

AC 36-1 Airplane Noise Levels, 5-13-73. Canceled by AC 36-1A Certified Airplane Noise Levels, 7-21-75.

AC 61-12F Student Pilot Guide, 1-25-74. Canceled by AC 61-12G Student Pilot Guide, 4-24-75.

AC 65-5 Parachute Rigger Certification Guide, 6-19-67. Canceled by AC 65-5A Parachute Rigger—Senior/Master—Certification Guide, 12-20-74.

AC 90-47 Abbreviated Instrument Flight Rules Departure Clearance, 3-18-70. Canceled.

AC 140-2I List of Certificated Pilot Flight and Ground Schools, 7-12-74. Canceled by AC 140-2J List of Certificated Pilot Schools, 6-27-75.

AC 150/5300-4A Utility Airports—Air Access to National Transportation, 5-6-69. Canceled by AC 150/5300-4B Utility Airports—Air Access to National Transportation, 6-24-75.

AC 150/5320-9 Use of a Friction Measuring Device in Engineering and Maintenance of Airport Pavement Surfaces, 5-19-72. Canceled by AC 150/5320-12 Methods for Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces, 6-30-75.

AC 150/5325-5A Aircraft Data, 1-12-68. Canceled by AC 150/5325-5B Aircraft Data, 7-30-75.

AC 150/5330-2A Runway/Taxiway Widths and Clearances for Airline Airports, 7-26-68. Canceled by AC 150/5335-4 Airport Design Standards—Airports Served by Air Carriers—Runway Geometrics, 7-21-75.

AC 150/5330-3 Wind Effect on Runway Orientation, 5-5-66. Canceled by AC 150/5335-4 Airport Design Standards—Airports Served by Air Carriers—Runway Geometrics.

AC 150/5340-4B Installation Details for Runway Centerline and Touchdown Zone Lighting Systems, 5-6-69. Canceled by AC 150/5340-4C Installation Details for Runway Centerline and Touchdown Zone Lighting Systems, 5-6-75.

AC 150/5340-9 Prefabricated Metal Housing for Electrical Equipment, 8-18-64. Canceled.

AC 150/5345-9C Specification for L-819 Fixed Focus Bidirectional High Intensity Runway Lights, 12-23-69. Canceled by AC 150/5345-48 Specification for Runway and Taxiway Edge Lights, 8-1-75.

AC 150/5345-15 Specification for L-842 Airport Centerline Light, 1-6-64. Canceled by AC 150/5345-46 Specification for Semiflush Airport Lights, 7-11-75.

AC 150/5345-16 Specification for L-843 Airport In-Runway Touchdown Zone Light, 1-20-64. Canceled by AC 150/5345-46 Specification for Semiflush Airport Lights, 7-11-75.

AC 150/5345-17 Specification for L-845 Semiflush Inset Prismatic Airport Light, 3-3-64. Canceled by AC 150/5345-46 Specification for Semiflush Airport Light, 7-11-75.

AC 150/5345-19 Specification for L-838 Semiflush Prismatic Airport Light, 5-11-64. Canceled by AC 150/5345-46 Specification for Semiflush Airport Lights, 7-11-75.

AC 150/5345-20 Specification for L-802 Runway and Strip Light, 6-24-64. Canceled by AC 150/5345-48 Specification for Runway and Taxiway Edge Lights, 8-1-75.

AC 150/5345-22 Specification for L-834 Individual Lamp Series-to-Series Type Insulating Transformer for 5,000 Volt Series Circuit, 10-8-64. Canceled by AC 150/5345-47 Isolation Transformers for Airport Lighting Systems, 7-28-75.

AC 150/5345-23 Specification for L-822 Taxiway Edge Light, 10-13-64. Canceled by AC 150/5345-48 Specification for Runway and Taxiway Edge Lights, 8-1-75.

AC 150/5345-29A FAA Specification L-852, Light Assembly, Airport Taxiway Centerline, 4-28-71. Canceled by AC 150/5345-46 Specification for Semiflush Airport Lights, 7-11-75.

AC 150/5345-31A Specification for L-833 Individual Lamp Series-to-Series Type Insulating Transformer for 600-Volt or 5,000-Volt Series Circuits, 4-24-70. Canceled by AC 150/5345-47 Isolation Transformers for Airport Lighting Systems, 7-28-75.

AC 150/5345-33 Specifications for L-844 Individual Lamp Series-to-Series Type Insulating Transformer for 5,000 Volt Series Circuit 6.6/20 Amperes 200 Watt, 1-13-65. Canceled by AC 150/5345-47 Isolation Transformers for Airport Lighting Systems, 7-28-75.

AC 150/5345-34 Specification for L-839 Individual Lamp Series-to-Series Type Insulating Transformer for 5,000 Volt Series Circuit 6.6/20 Amperes 300 Watt, 1-13-65. Canceled by AC 150/5345-47 Isolation Transformers for Airport Lighting Systems, 7-28-75.

AC 150/5345-37C FAA Specification L-850, Light Assembly Airport Runway Centerline and Touchdown Zone, 6-27-72. Canceled by AC 150/5345-46 Specification for Semiflush Airport Lights, 7-11-75.

AC 150/5345-38 Changes to Airport Lighting Equipment, 3-23-67. Canceled.

AC 150/5345-41 Specification for L-855, Individual Lamp, Series-to-Series Type Insulating Transformers for 5,000 Volt Series Circuit, 6.6/6.6 Amperes, 65 Watts, 4-24-70. Canceled by AC 150/5345-47 Isolation Transformers for Airport Lighting Systems, 7-28-75.

AC 150/5360-1 Airport Service Equipment Buildings, 4-6-64. Canceled.

AC 150/5370-2 Safety on Airports During Construction Activity, 4-22-64. Canceled by AC 150/5370-2A Operational Safety on Airports with Emphasis on Safety During Construction, 6-20-75.

AC 150/5370-8 Grooving of Runway Pavements, 3-16-71. Canceled by AC 150/5320-12 Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces, 6-30-75.

AC 150/5380-1 Airport Maintenance, 4-14-63. Canceled by AC 150/5320-12 Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces, 6-30-75.

AC 150/5380-3A Removal of Contaminants from Pavement Surfaces, 10-27-70. Canceled by AC 150/5320-12 Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces, 6-30-75.

AC 183.29-1G Designated Engineering Representatives, 7-1-74. Canceled by AC 183.29-1H Designated Engineering Representatives, 7-1-75.

8. *Additions.* The following advisory circulars are added to the list.

AC 00-2FF Advisory Circular Checklist, 9-15-75.

AC 00-45 Aviation Weather Services, 2-26-75.

AC 20-6X U.S. Civil Aircraft Register, January 1975.

AC 20-7M General Aviation Inspection Aids, August 1975.

AC 20-33B Technical Information Regarding Civil Aeronautics Manuals 1, 3, 4a, 4b, 5, 6, 7, 8, 9, 13, and 14, 5-1-75.

AC 21-14 The Role of Simulation in the Aircraft Certification Process, 6-12-75.

AC 36-1A Certified Airplane Noise Levels, 7-21-75.

AC 43.13-1A CHG 1 Acceptable Methods, Techniques, and Practices—Aircraft Inspection and Repair, 5-12-75.

AC 61-12G Student Pilot Guide, 4-24-75.

AC 65-5A Parachute Rigger—Senior/Master—Certification Guide, 12-20-74.

AC 90-67 Light Signals from the Control Tower for Ground Vehicles, Equipment, and Personnel, 8-15-75.

AC 91-42 Hazards of Rotating Propellers, 6-17-75.

AC 91-43 Unreliable Airspeed Indications, 6-26-75.

AC 121-18 Aviation Security—Carriage of Weapons and Escorted Persons, 7-16-75.

AC 140-2J List of Certificated Pilot Schools, 6-27-75.

AC 150/5300-4B Utility Airports—Air Access to National Transportation, 6-24-75.

AC 150/5300-10 Federal Aviation Administration Funded Study—Analysis of General Aviation Airports Developed With and Without Federal Financial Assistance, 7-21-75.

AC 150/5320-12 Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces, 6-30-75.



- AC 150/5325-4 CHG 9 Runway Length Requirements for Runway Design, 8-15-75.  
 AC 150/5325-5B Aircraft Data, 7-30-75.  
 AC 150/5335-4 Airport Design Standards—Airports Served by Air Carriers—Runway Geometrics, 7-21-75.  
 AC 150/5340-4C Installation Details for Runway Centerline and Touchdown Zone Lighting Systems, 5-6-75.  
 AC 150/5345-46 Specification for Semiflush Airport Lights, 7-11-75.  
 AC 150/5345-47 Isolation Transformers for Airport Lighting Systems, 7-28-75.  
 AC 150/5345-48 Specification for Runway and Taxiway Edge Lights, 8-1-75.  
 AC 150/5370-2A Operational Safety on Airports with Emphasis on Safety During Construction, 8-20-75.  
 AC 189.29-1H Designated Engineering Representatives, 7-1-75.

# ADVISORY CIRCULAR CHECKLIST

## Notice

Superintendent of Documents catalogue numbers have been included to aid Superintendent of Documents personnel in processing orders. Please use them when ordering—along with the title and FAA number. To avoid unnecessary delays, do not order single-sales material and subscription-sales material on the same order form, as orders are separated for processing by different departments when they arrive at Superintendent of Documents. Be sure your name and address appears on each list.

## NOTICE

Prices shown are those in effect as of September 15, 1975. Prices are subject to change without notice and the prices that will be charged on your order will be those in effect as of the date your order is processed.

## General

### SUBJECT NO. 00

#### 00-1 The Advisory Circular System (12-4-62).

Describes the FAA Advisory Circular System.

#### 00-2FF Advisory Circular Checklist (9-15-75).

Transmits the revised checklist of current FAA advisory circulars and the status of the Federal Aviation Regulations as of 9-15-75.

#### 00-6 Aviation Weather (5-20-65).

Provides an up-to-date and expanded text for pilots and other flight operations personnel whose interest in meteorology is primarily in its application to flying. Reprinted 1969. (\$4 GPO.) FAA 5.8/2: W 37.

#### 00-7A State and Regional Disaster Airlift (SARDA) Planning (6-3-74).

Provides guidance for the development and implementation of State and Regional Disaster Airlift plans governing the use of general aviation aircraft during national emergencies and natural disasters.

#### 00-17 Turbulence in Clear Air (12-16-65).

Provides information on atmospheric turbulence and wind shear, emphasizing important points pertaining to the common causes of turbulence, the hazards associated with it, and the conditions under which it is most likely to be encountered.

#### 00-21 Shoulder Harness (10-5-66).

Provides information concerning the installation and use of shoulder harnesses by pilots in general aviation aircraft.

#### 00-24 Thunderstorms (6-12-68).

Contains information concerning flights in or near thunderstorms.

#### 00-25 Forming and Operating a Flying Club (3-24-69).

Provides preliminary information that will assist anyone or any group of people interested in forming and operating a flying club. (\$0.75 GPO.) TD 4.8:F 67.

#### 00-26 Definitions of "U.S. National Aviation Standards" (1-22-69).

Informs the aviation community of the approval by the FAA Administrator of a definition of U.S. National Aviation Standards, the need for such standards, and their relationship to the Federal Aviation Regulations.

#### 00-28 Communications Interference Caused by Sticking Microphone Buttons (8-6-69).

Alerts the industry of communications interference from undesired radiofrequency transmissions.

#### 00-30 Rules of Thumb for Avoiding or Minimizing Encounters with Clear Air Turbulence (3-5-70).

Brings to the attention of pilots and other interested personnel, the "Rule of Thumb" for avoiding or minimizing encounters with clear air turbulence (CAT).

#### 00-31 U.S. National Aviation Standard for the VORTAC System (6-10-70).

Informs the aviation community of the establishment and content of the U.S. National Aviation Standard for the VORTAC (VOR-TACAN-DME) System.

#### 00-32 Civil Air Patrol and State and Regional Defense Airlift Relationships (7-2-70).

Advises interested persons of the Memorandum of Understanding between CAP and FAA, and provides additional guidance to further improve the use of non-air carrier aircraft in time of national emergency.

#### 00-33A Nickel-Cadmium Battery Operational, Maintenance, and Overhaul Practices (2-14-73).

Provides guidelines for more reliable nickel-cadmium battery operation through proper operational and maintenance practices, and has been reissued to include reconditioning information.

#### 00-34A Aircraft Ground Handling and Servicing (7-29-74).

Contains information and guidance for the servicing and ground handling of aircraft.

#### 00-35A Emergency Locator Transmitters—Operational and Maintenance Practices (9-28-73).

Provides guidelines relative to the licensing, installation, maintenance, and

testing of emergency locator transmitters (ELT).

#### 00-35A CH 1 (4-18-74).

Paragraph 4 of this Advisory Circular deals with the interpretation of FAA licensing requirements and in some instances has been misunderstood. Because this paragraph is subject to misinterpretation and does not concern ELT operational or maintenance practices, it is therefore deleted.

#### 00-36 Inadvertent Transmissions from Emergency Locator Transmitters (ELT) (3-15-73).

Urges pilots and maintenance personnel to make sure emergency locator transmitters are switched off when aircraft are parked.

#### 00-38 Address List for Federal Aviation Administration Air Transportation Security Divisions, Air Transportation Security Field Offices, and Security Specialist Post of Duty (8-28-73).

Transmits the address list for all FAA Air Transportation Security Divisions, Air Transportation Security Field Offices, and Security Specialist Posts of Duty.

#### 00-40 Emergency Locator Transmitter Regulations in FAR 91.52(a)(2) (10-3-73).

Discusses the relationship between FAR 91.52(a)(2) and Section 601(d) of the Federal Aviation Act of 1958 (as amended) and how that relationship affects those who might wish to petition the FAA for an exemption from FAR 91.52(a)(2).

#### 00-41 FAA Quality System Certification Program (1-31-74).

Provides information concerning the Federal Aviation Administration (FAA) Quality System Certification Program and sets forth acceptable means of compliance with its requirements.

#### 00-41 CH 1 (5-20-74).

Clarifies the requirement for the prime manufacturer's Quality Control System Plan to be a self-contained document independent of detailed operating procedures.

Adds paragraphs 2.5 and 3.1 to Appendix 1.

#### 00-44A Status of the Federal Aviation Regulations (3-4-75).

Summarizes the current status of the conversion program, lists FAR prices, and provides ordering instructions for purchasing the regulations.

#### 00-45 Aviation Weather Services (2-26-75).

Supplements AC 00-6, Aviation Weather, in that it explains the weather service in general and the use and interpretation of reports, forecasts, weather maps, and prognostic charts in detail. Is an excellent source of study for pilot certification examinations. (\$1.95 GPO.) TD 4.408:W37/2.



**00-46 Aviation Safety Reporting Program (5-9-75).**

Advises that the FAA will make an evaluation study of the National Air Transportation System; will provide reporting procedures; and invites pilots, controllers, and other users of the airspace system or any other person to report discrepancies or deficiencies noted in the system to the FAA.

**Procedural**

**SUBJECT NO. 10**

**11-1A Airspace Rule-Making Proposals and Changes to Air Traffic Control Procedures (12-21-72).**

Emphasizes the need for the early submission of proposal involving airspace rule-making activity or changes to existing procedures for the control of air traffic.

**Aircraft**

**SUBJECT NO. 20**

**20-3C Status and Availability of Military Handbooks and ANC Bulletins for Aircraft (6-1-73).**

Announces the status and availability of Military Handbooks and ANC Bulletins prepared jointly with FAA, Navy and Air Force.

**20-5C Plane Sense (1974).**

Provides general aviation information for the private aircraft owner.

**20-6X U.S. Civil Aircraft Register (2-Volume set) (Jan. 1975).**

Lists all active U.S. civil aircraft by registration number. (\$21.40 GPO.) TD 4.18/2:975-2/v. 1, 2.

**20-7M General Aviation Inspection Aids, Summary (August 1975).**

Provides the aviation community with a uniform means for interchanging service experience that may improve the durability and safety of aeronautical products. Of value to mechanics, operators of repair stations, and others engaged in the inspection, maintenance, and operation of aircraft in general. (\$10.05, \$12.60 foreign—Sub. GPO.) TD 4.409:973.

**20-7M Supplement 1 (September 1975).**

**20-9 Personal Aircraft Inspection Handbook (12-2-64).**

Provides a general guide, in simple, nontechnical language, for the inspection of aircraft. Reprinted 1972. (\$1.60 GPO.) FAA 5.8/2:A1 7/2.

**20-10 Approved Airplane Flight Manuals for Transport Category Airplanes (7-30-63).**

Calls attention to the regulatory requirements relating to FAA Approved Airplane Flight Manuals.

**20-13A Surface-Effect Vehicles (8-28-64).**

States FAA policy on surface-effect vehicles (vehicles supported by a cushion of compressed air).

**20-17B Surplus Aircraft of the Armed Forces (10-11-72).**

Sets forth the method of obtaining copies of Federal Aviation Regulations which might be required for certification of surplus military aircraft.

**20-18A Qualification Testing of Turbojet Engine Thrust Reversers (3-16-66).**

Discusses the requirements for the qualification of thrust reversers and sets forth an acceptable means of compliance with the tests prescribed in Federal Aviation Regulations, Part 33, when run under nonstandard ambient air conditions.

**20-23D Interchange of Service Experience—Mechanical Difficulties (2-12-71).**

Provides information on the voluntary exchange service experience data used in improving durability and safety of aeronautical products.

**20-24A Qualification of Fuels, Lubricants, and Additives (4-1-67).**

Establishes procedures for the approval of the use of subject materials in certificated aircraft.

**20-27B Certification and Operation of Amateur-Built Aircraft (4-20-72).**

Provides information and guidance concerning certification and operation of amateur-built aircraft, including gliders, free balloons, helicopters, and gyroplanes, and sets forth an acceptable means, not the sole means, of compliance with FAR Part 21 and FAR Part 91.

**20-28A Nationally Advertised Construction Kits, Amateur-Built Aircraft (12-29-72).**

Advises persons contemplating the use of nationally advertised kits for the construction of an aircraft, that certain kits when used could render the aircraft ineligible for the issuance of an experimental certificate as an amateur-built aircraft.

**20-29B Use of Aircraft Fuel Anti-icing additives (1-18-72).**

Provides information on the use of anti-icing additives PFA-55MB and MIL-I-27686 as an acceptable means of compliance with the FARs that require assurance of continuous fuel flow under conditions where ice may occur in turbine aircraft fuel systems.

**20-30A Airplane Position Lights and Supplementary Lights (4-18-68).**

Provides an acceptable means for complying with the position light requirements for airplane airworthiness and acceptable criteria for the installation of supplementary lights on airplanes.

**20-32B Carbon Monoxide (CO) Contamination in Aircraft—Detection and Prevention (11-24-72).**

Provides information on the potential dangers of carbon monoxide contamination from faulty engine exhaust systems or cabin heaters of the exhaust gas heat exchanger type.

**20-33B Technical Information Regarding Civil Aeronautics Manuals 1, 3, 4a, 4b, 5, 6, 7, 8, 9, 13 and 14 (5-1-75).**

Advises the public that policy information contained in the subject Civil Aeronautics Manuals may be used in conjunction with specific sections of the Federal Aviation Regulations.

**20-34A Prevention of Retractable Landing Gear Failures (4-21-69).**

Provides information and suggested procedures to minimize landing accidents involving aircraft having retractable landing gear.

**20-35B Tie-Down Sense (4-19-71).**

Provides information of general use on aircraft tie-down techniques and procedures.

**20-36D Index of Materials, Parts, and Appliances Certified Under the Technical Standard Order System—August 1, 1974 (9-6-74).**

Lists the materials, parts, and appliances for which the Administrator has received statements of conformance under the Technical Standard Order system as of August 1, 1974. Such products are deemed to have met the requirements for FAA approval as provided in Part 37 of the Federal Aviation Regulations.

**20-37B Aircraft Metal Propeller Blade Failure (9-12-74).**

Provides information and suggested procedures to increase service life and to minimize blade failures of metal propellers.

**20-38A Measurement of Cabin Interior Emergency Illumination in Transport Airplanes (2-8-66).**

Outlines acceptable methods, but not the only methods, for measuring the cabin interior emergency illumination on transport airplanes, and provides information as to suitable measuring instruments.

**20-39 Installation Approval of Entertainment Type Television Equipment in Aircraft (7-15-65).**

Presents an acceptable method (but not the only method) by which compliance may be shown with Federal Aviation Regulations 23.1431, FAR 25.1309(b), FAR 27.1309(b), or FAR 29.1309(b), as applicable.

**20-40 Placards for Battery-Excited Alternators Installed in Light Aircraft (8-11-65).**

Sets forth an acceptable means of complying with placarding rules in Federal Aviation Regulations 23 and 27 with respect to battery-excited alternator installations.

**20-41 Replacement TSO Radio Equipment in Transport Aircraft (8-30-65).**

Sets forth an acceptable means for complying with rules governing transport category aircraft installations in cases



involving the substitution of technical standard order radio equipment for functionally similar radio equipment.

**20-42 Hand Fire Extinguishers in Transport Category Airplanes and Rotorcraft (9-1-65).**

Sets forth acceptable means (but not the sole means) of compliance with certain hand fire extinguisher regulations in FAR 25 and FAR 29, and provides related general information.

**20-43B Aircraft Fuel Control (6-8-71).**

Alerts the aviation community to the potential hazards of inadvertent mixing or contamination of turbine and piston fuels, and provides recommended fuel control and servicing procedures.

**20-44 Glass Fiber Fabric for Aircraft Covering (9-3-65).**

Provides a means, but not the sole means, for acceptance of glass fiber fabric for external covering of aircraft structure.

**20-45 Safelying of Turnbuckles on Civil Aircraft (9-17-65).**

Provides information on turnbuckle safelying methods that have been found acceptable by the FAA during past aircraft type certification programs.

**20-46 Suggested Equipment for Gliders Operating Under IFR (9-23-65).**

Provides guidance to glider operators on how to equip their gliders for operation under instrument flight rules (IFR), including flight through clouds.

**20-47 Exterior Colored Band Around Exits on Transport Airplanes (2-8-66).**

Sets forth an acceptable means, but not the only means, of complying with the requirement for a 2-inch colored band outlining exits required to be openable from the outside on transport airplanes.

**20-48 Practice Guide for Decontaminating Aircraft (5-5-66).**

The title is self-explanatory.

**20-51 Procedures for Obtaining FAA Approval of Major Alterations to Type Certificated Products (4-12-67).**

Provides assistance to persons who desire to obtain FAA approval of major alterations to type certificate products.

**20-52 Maintenance Inspection Notes for Douglas DC-6/7 Series Aircraft (8-24-67). (Consolidated Reprint—January 1974, includes Change 1.)**

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of DC-6/7 series aircraft.

**20-53 Protection of Aircraft Fuel System Against Lightning (10-6-67).**

Sets forth acceptable means, not the sole means, by which compliance may be shown with fuel system lightning protection airworthiness regulations.

**20-54 Hazards of Radium-Activated Luminous Compounds Used on Aircraft Instruments (10-24-67).**

Provides information concerning health hazards associated with the repair and maintenance of instruments containing luminous markings activated with radium-226 or radium-228 (mesothorium).

**20-55 Turbine Engine Overhaul Standard Practices Manual—Maintenance of Fluorescent Penetrant Inspection Equipment (1-22-68).**

Advises operators of the necessity for periodic checking of black light lamps and filters used during fluorescent penetrant inspection of engine parts.

**20-56A Marking of TSO-C72b Individual Flotation Devices (4-1-75).**

Outlines acceptable methods for marking individual flotation devices which also serve as seat cushions.

**20-57A Automatic Landing Systems (ALS) (1-12-71).**

Sets forth an acceptable means of compliance, but not the only means, for the installation approval of automatic landing systems in transport category aircraft which may be used initially in Category II operations. Approval of these aircraft for use under such conditions will permit the accumulation of data for systems which may be approved for Category IIIa in the future.

**20-59 Maintenance Inspection Notes for Convair 240, 340/440, 240T, and 340T Series Aircraft (2-19-68).**

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of Convair 240, 340/440, 240T, and 340T series aircraft.

**20-59 CH 1 (8-24-72).**

Provides additional material for Convair Models 240 and 600/240D; Models 340/440 and 640/340D/440D series aircraft Maintenance inspection programs.

**20-60 Accessibility to Excess Emergency Exits (7-18-68).**

Sets forth acceptable means of compliance with the "readily accessible" provisions in the Federal Aviation Regulations dealing with excess emergency exits.

**20-62B Eligibility, Quality, and Identification of Approved Aeronautical Replacement Parts (9-13-74).**

Provides information relative to the determination of the eligibility of aeronautical parts and materials for installation on certificated aircraft.

**20-63 Airborne Automatic Direction Finder Installations (Low and Medium Frequency) (7-7-69).**

Sets forth one means, but not the only means, of demonstrating compliance with the airworthiness rules governing the functioning of airborne automatic direction finders. It does not pertain to installations previously approved.

**20-64 Maintenance Inspection Notes for Lockheed L-188 Series Aircraft (8-1-69).**

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of Lockheed L-188 series aircraft.

**20-64 CH 1 (10-26-73).**

**20-65 U.S. Airworthiness Certificates and Authorizations for Operation of Domestic and Foreign Aircraft (8-11-69).**

Provides general information and guidance concerning issuance of airworthiness certificates for U.S. registered aircraft, and issuance of special flight authorizations for operation in the United States of foreign aircraft not having standard airworthiness certificates issued by the country of registry.

**20-66 Vibration Evaluation of Aircraft Propellers (1-29-70).**

Outlines acceptable means, but not the sole means, for showing compliance with the requirements of the FARs concerning propeller vibration.

**20-67A Airborne VHF Communication System Installations (10-17-72).**

Sets forth one means, but not the only means of demonstrating compliance with the airworthiness rules governing the functioning of airborne VHF communication systems.

**20-68A Recommended Radiation Safety Precautions for Airborne Weather Radar (4-11-75).**

Sets forth recommended radiation safety precautions for ground operation of airborne weather radar.

**20-69 Conspicuity of Aircraft Instrument Malfunction Indicators (5-14-70).**

Provides design guidance information on methods of improving conspicuity of malfunction indication devices.

**20-71 Dual Locking Devices on Fasteners (12-8-70).**

Provides guidance and acceptable means, not the sole means, by which compliance may be shown with the requirements for dual locking devices on removable fasteners installed in rotorcraft and transport category airplanes.

**20-72 Restricted Category Helicopter Maximum Weight Increases (3-11-71).**

Provides assistance to persons who desire to obtain FAA approval of overmaximum certificated takeoff weight condition for restricted category helicopter operations.

**20-73 Aircraft Ice Protection (4-21-71).**

Provides information relating to the substantiation of ice protection systems on aircraft.

**20-74 Aircraft Position and Anticollision Light Measurements (7-29-71).**

Contains useful information concerning measurements for intensity, covering.



and color of aircraft position and anti-collision lights.

**20-76 Maintenance Inspection Notes for Boeing B-707/720 Series Aircraft (10-21-71).**

Provides maintenance inspection notes which can be used for the maintenance support program for certain structural parts of the B-707/720 series aircraft.

**20-77 Use of Manufacturers' Maintenance Manuals (3-22-72).**

Provides information about the usefulness of manufacturers' maintenance manuals for servicing, repairing, and maintaining aircraft, engines, and propellers.

**20-78 Maintenance Inspection Notes for McDonnell Douglas DC-8 Series Aircraft (7-11-72).**

Provides maintenance inspection notes which can be used for the maintenance support program for certain structural parts of the DC-8 series aircraft.

**20-81 Accidental or Unauthorized Activation of Emergency Locator Transmitters (ELT) (10-10-72).**

Alerts the general aviation community to the harmful effects of accidental or unauthorized activation of emergency locator transmitters.

**20-82 Maintenance Inspection Notes for Fairchild Hiller F-27/FH-227 Series Aircraft (12-5-72).**

Provides maintenance inspection notes which can be used for the maintenance support program for certain structural parts of Fairchild Hiller F-27/FH-227 series aircraft.

**20-82 CH 1 (7-12-73).**

Provides additional material for subject advisory circular.

**20-83 Maintenance Inspection Notes for Boeing B-737 Series Aircraft (1-17-73).**

Provides maintenance inspection notes which can be used for the maintenance support program for certain structural parts of the B-737 series aircraft.

**20-83 CH 1 (8-8-74).**

Provides updating of material for the B-737 series aircraft maintenance inspection program. Inspection of selected areas of the wing, fuselage, empennage and landing gear of B-737 series aircraft are presented supplementing information currently in AC 20-83.

**20-83 CH 2 (1-31-75).**

**20-84 Maintenance Inspection Notes for Boeing B-727 Series Aircraft (1-22-73).**

Provides inspection notes which can be used for the maintenance support program for certain structural parts of the B-727 series aircraft.

**20-84 CH 1 (8-8-74).**

Updates material for the B-727 series aircraft maintenance inspection program. Inspection of selected areas of the wing, fuselage, empennage and landing gear of the B-727 series aircraft are

presented supplementing information currently available in AC 20-84.

**20-84 CH 2 (1-31-75).**

**20-85 Emergency Locator Transmitters and Receivers (3-16-73).**

Provides information concerning the design, installation, and utilization of emergency locator transmitters.

**20-86 Aviation Education through Building an Airplane (5-11-73).**

Provides information to high schools about the available assistance, resources, methods, and opportunities for attaining basic educational goals by building an airplane.

**20-87 Airborne Homing and Alerting Equipment for use with Emergency Locator Transmitters (5-7-73).**

Sets forth the availability of recommended basic characteristics for airborne homing and alerting equipment for use with emergency locator transmitters (ELT).

**20-88 Guidelines on the Marking of Power-Plant Instruments (12-11-73).**

Provides guidelines on the marking of aircraft powerplant instruments.

**20-89 Communication Interference Caused by Unintentional Radio Transmissions (3-22-74).**

Alerts the aviation community to the potential hazards created by unintentional radio transmissions from airborne, mobile, and ground based radio transmitters and gives guidance on alleviating ensuing hazards.

**20-90A Address List for Engineering and Manufacturing District Offices (3-5-75).**

Transmits the address list for all Engineering and Manufacturing District Offices.

**20-91 Lithium Batteries Used in Emergency Locator Transmitters (4-11-75).**

Warns of potential hazards associated with accidental release of sulfur-dioxide gas from lithium-sulfur batteries.

**21-1A Production Certificates (7-9-71).**

Provides information concerning Subpart G of Federal Aviation Regulations (FAR) Part 21, and sets forth acceptable means of compliance with its requirements.

**21-2B Export Airworthiness Approval Procedures (10-2-69).**

Announces the adoption of new regulations and provides guidance to the public regarding the issuance of export airworthiness approvals for aeronautical products to be exported from the United States.

**21-2B CH 1 (11-13-70).**

**21-2B CH 2 (2-8-71).**

**21-3 Basic Glider Criteria Handbook (1962).**

Provides individual glider designers, the glider industry, and glider operating

organizations with guidance material that augments the glider airworthiness certification requirements of the Federal Aviation Regulations. Reprinted 1973. (\$1.75 GPO). FAA 5.8/2:G49/962.

**21-4B Special Flight Permits for Operation of Overweight Aircraft (7-30-69).**

Furnishes guidance concerning special flight permits necessary to operate an aircraft in excess of its usual maximum certificated takeoff weight.

**21-5C Summary of Supplemental Type Certificates (Announcement of Availability) (1-19-73).**

Announces the availability to the public of the new price of the Summary of Supplemental Type Certificates (SSTC), dated January 1971.

**21-6 Production Under Type Certificate Only (5-26-67).**

Provides information concerning Subpart F of FAR Part 21, and sets forth examples, when necessary, of acceptable means of compliance with its requirements.

**21-7A Certification and Approval of Import Products (11-24-69).**

Provides guidance and information relative to U.S. certification and approval of import aircraft, aircraft engines and propellers that are manufactured in a foreign country with which the United States has an agreement for the acceptance of those products for export and import.

**21-8 Aircraft Airworthiness; Restricted Category: Certification of Aircraft With Uncertificated or Altered Engines or Propellers (5-21-69).**

Sets forth acceptable means of substantiating that uncertificated or altered engines and propellers have no unsafe features for type certification of aircraft in the restricted category.

**21-9 Manufacturers Reporting Failures, Malfunctions, or Defects (12-30-70).**

Provides information to assist manufacturers of aeronautical products (aircraft, aircraft engines, propellers, appliances, and parts) in notifying the Federal Aviation Administration of certain failures, malfunctions, or defects, resulting from design or quality control problems, in the products which they manufacture.

**21-10 Flight Recorder Underwater Locating Device (5-20-71).**

Provides one acceptable means (not the only means) of showing compliance with the underwater locating device requirements of FAR 25.1459 and FAR 121.343.

**21-11 Quality Assurance Systems Analysis Review (QASAR) Program Manufacturers/Suppliers (5-26-72).**

Explains the objectives and concept of the FAA's subject program.



# 21-12 Application for U.S. Airworthiness Certificate, FAA Form 8130-6 (OMB 04-R0058) (1-17-73).

Provides instructions on the preparation and submittal of subject form.

# 21-13 Standard Airworthiness Certification of Surplus Military Aircraft and Aircraft Built from Spare and Surplus Parts (4-5-73).

Provides guidance and instructions on establishing eligibility and submitting application for civil airworthiness certification of surplus military aircraft and aircraft assembled from spare and surplus parts, under FAR 21.183(d) when an FAA Type Certificate has been issued under FAR 21.21 or FAR 21.27.

# 21-14 The Role of Simulation in the Aircraft Certification Process (6-12-75).

Inform the aviation industry that the FAA intends to conduct an exploratory program to determine the degree to which simulation can support the aircraft certification process.

# 21.25-1 Use of Restricted Category Airplanes for Glider Towing (4-20-65).

Announces that glider towing is now considered to be a special purpose for type and airworthiness certification in the restricted category.

# 21.303-1A Certification Procedures for Products and Parts (8-10-72).

Provides information concerning section 21.303 of Federal Aviation Regulations, Part 21, and to set forth examples, as necessary, of acceptable means of compliance with its requirements.

# 23.1329-1 Automatic Pilot Systems Approval (Non-Transport) (12-23-65).

Sets forth an acceptable means by which compliance with the automatic pilot installation requirements of FAR 23.1329 may be shown.

# 25-2 Extrapolation of Takeoff and Landing Distance Data Over a Range of Altitude for Turbine-Powered Transport Aircraft (7-9-64).

Sets forth acceptable means by which compliance may be shown with the requirements in CAR 4b and SR-422B.

# 25-4 Inertial Navigation Systems (INS) (2-18-66).

Sets forth an acceptable means for complying with rules governing the installation of inertial navigation systems in transport category aircraft.

# 25-5 Installation Approval on Transport Category Airplanes of Cargo Unit Load Devices Approved as Meeting the Criteria in NAS 3610 (6-3-70).

Set forth an acceptable means, but not the sole means, of complying with the requirements of the Federal Aviation Regulations (FAR's) applicable to the installation on transport category airplanes of cargo unit load devices approved as meeting the criteria in NAS 3610.

# 25-6 Ground Proximity Warning Systems (GPWS) (12-31-74).

Outlines acceptable ground proximity warning system performance. System performance, other than that described, may also be acceptable when adequately substantiated.

# 25.253-1 High-Speed Characteristics (11-24-65).

Sets forth an acceptable means by which compliance may be shown with FAR 25.253 during certification flight tests.

# 25.253-1 CH1 (1-10-66).

Provides amended information for the basic advisory circular.

# 25.981-1A Guidelines for Substantiating Compliance With the Fuel Tank Temperature Requirements (1-20-71).

Sets forth some general guidelines for substantiating compliance with fuel tank temperature airworthiness standards, section 25.981.

# 25.1329-1A Automatic Pilot System Approval (7-8-68).

Sets forth an acceptable means by which compliance with the automatic pilot installation requirements of FAR 25.1329 may be shown.

# 25.1457-1A Cockpit Voice Recorder Installations (11-3-69).

Sets forth one acceptable means of compliance with provisions of FAR 25.1457 (b), (e), and (f) pertaining to area microphones, cockpit voice recorder location, and erasure features.

# 29-1 Approval Basis for Automatic Stabilization Equipment (ASE) Installations in Rotorcraft (12-26-63).

Gives means for compliance with flight requirements in various CAR's.

# 29-1 CH1 (3-26-64).

Transmits revised information about the time delay of automatic stabilization equipment.

# 29.773-1 Pilot Compartment View (1-19-66).

Sets forth acceptable means, not the sole means, by which compliance with FAR 29.773(a) (1), may be shown.

# 33-1B Turbine-Engine Foreign Object Ingestion and Rotor Blade Containment Type Certification Procedures (4-22-70).

Provides guidance and acceptable means, not the sole means, by which compliance may be shown with the design and construction requirements, of Part 33 of the Federal Aviation Regulations.

# 33-2A Aircraft Engine Type Certification Handbook (6-5-72).

Contains guidance relating to type certification of aircraft engines which will constitute acceptable means, although not the sole means, of compliance with the Federal Aviation Regulations.

# 33-3 Turbine and Compressor Rotors Type Certification Substantiation Procedures (9-9-68).

Sets forth guidance and acceptable means, not the sole means, by which compliance may be shown with the turbine and compressor rotor substantiation requirements in FAR Part 33.

# 36-1A Certificated Airplane Noise Levels (7-21-75).

Provides noise level data for airplanes certificated under FAR Part 36 since its publication on Nov. 18, 1969.

# 37-2A Test Procedures for Maximum Allowable Airspeed Indicators (10-22-74).

Provides guidance concerning test procedures which may be used in showing compliance with the standards in FAR 37.145 (TSO-C46a).

# 37-3A Radio Technical Commission for Aeronautics Document DO-160 (3-20-75).

This circular announces RTCA Document DO-160 and discusses how it may be used in connection with technical standard order authorizations.

# 39-1A Jig Fixtures; Replacement of Wing Attach Angles and Doublers on Douglas Model DC-3 Series Aircraft Airworthiness Directive 66-18-2 (3-5-70).

Describes methods of determining that jig fixtures used in the replacement of the subject attached angles and doublers meet the requirements of Airworthiness Directive 66-18-2.

# 39-6D Summary of Airworthiness Directives (2-11-74).

Announces the availability of Summary of Airworthiness Directives dated January 1, 1974 from the FAA in Oklahoma City and how to obtain them.

# 43-1 Matching VHF Navigation Receiver Outputs With Display Indicators (8-2-65).

Alerts industry to the possibility of mismatching outputs, both guidance and flag alarm, of certain VHF navigation receivers when used with some types of display indicators causing the receiver to fail without providing a flag alarm.

# 43-2A Minimum Barometry for Calibration and Test of Atmospheric Pressure Instruments (8-22-74).

Sets forth guidance material which may be used to determine the adequacy of barometers used in the calibration of aircraft static instruments and presents information concerning the general operation, calibration, and maintenance of such barometers.

# 43-3 Nondestructive Testing in Aircraft (5-11-73).

Reviews the basic principles underlying nondestructive testing. (\$0.75 GPO.) TD 4.8:T28/973.

# 43-4 Corrosion Control for Aircraft (5-15-73).

Summarizes current available data regarding identification and treatment of



corrosive attack on aircraft structure and engine materials.

#### 43-4 CH 1 (3-1-74).

Provides additional information on identification and treatment of corrosion attack on aircraft structures. Adds a new Chapter 14—Corrosion control of aircraft used in agricultural cropdusting operations.

#### 43-4 CH 2 (10-8-74).

Clarifies the discussion on the removal of corrosion and treatment of corroded areas.

#### 43-5 Airworthiness Directives for General Aviation Aircraft (8-13-74).

Points areas of misunderstanding regarding: (1) Aircraft owners and operators' responsibility for complying with AD's; (2) maintenance personnel responsibilities with regards to performance of AD's; and (3) maintenance records entries for AD's required by FAR 91.173(a) (2) (v) and FAR 43.9.

#### 43-6 Automatic Pressure Altitude Encoding Systems and Transponder Maintenance and Inspection Practices (9-19-74).

Provides information on the installation of encoding altimeters based upon recently acquired operating experience and on the maintenance of ATC transponders.

#### 43-7 Ultrasonic Testing for Aircraft (9-24-74).

Describes methods used in ultrasonic nondestructive testing, discusses the many advantages, and points out the simplicity of the tests. Contains many illustrations. (\$1 GPO.) TD 4402:UL 8.

#### AC 43-9 Maintenance Records: General Aviation Aircraft (2-19-75).

Provides information to assist maintenance personnel in fulfilling their responsibility under FAR Section 43.9.

#### 43.9-1C Instruction for Completion of FAA Form 337 (12-20-73).

Provides instructions for completing revised FAA Form 337, Major Repair and Alteration (Airframe, Powerplant, Propeller, or Appliance).

#### 43.13-1A Acceptable Methods, Techniques and Practices—Aircraft Inspection and Repair (4-17-72).

Contains methods, techniques, and practices acceptable to the Administrator for inspection and repair to civil aircraft. Published in 1973. (\$3.70—GPO.) TD 428/2:972.

#### 43.13-1A CHG 1 (5-12-75).

Transmits new and revised material for basic advisory circular. (\$0.65—G.P.O.) TD 428/2:973/Ch. 1.

#### 43.13-2 Acceptable Methods, Techniques, and Practices—Aircraft Alterations (4-19-66).

Contains methods, techniques, and practices acceptable to the Administrator in altering civil aircraft. Published in 1965. (\$3.60—\$4.50 foreign Sub.—GPO.) TD 428:973.

Subscription now includes: Changes 1 thru 14 Consolidated Reprint in 1973, Change 15 dated 1-15-74, and Change 16 dated 8-12-74.

#### 43-202 Maintenance of Weather Radar Radomes (6-11-65).

Provides guidance material useful to repair facilities in the maintenance of weather radar radomes.

#### 43-203A Altimeter and Static System Tests and Inspections (6-6-67).

Specifies acceptable methods for testing altimeter and static system. Also, provides general information on test equipment used and precautions to be taken.

#### 45-2 Identification and Registration Marking (7-7-72).

Provides guidance and information concerning the identification and marking requirements of Federal Aviation Regulations (FAR) Parts 21 and 45, and where considered helpful, to provide an acceptable means, but not the sole means, of compliance with the regulations.

#### 47-1A Aircraft Registration, Eligibility, Identification and Activity Report (6-7-73).

Advises owners and operators of U.S. civil aircraft of requirement for annual submission of current information related to aircraft registration eligibility, requests similar submission of information related to identification and activity of aircraft; and to call attention to the availability of the reporting form to be used.

#### Airmen

#### SUBJECT NO. 60

#### 60-2M Annual Aviation Mechanic Safety Awards Program (2-6-75).

Provides the details of the annual Aviation Mechanic Safety Awards Program.

#### 60-4 Pilot's Spatial Disorientation (2-9-65).

Acquaints pilots flying under visual flight rules with the hazards of disorientation caused by the loss of reference with the natural horizon.

#### 60-6 FAA Approved Airplane Flight Manuals, Placards, Listings, Instrument Markings—Small Airplanes (12-13-68).

Alerts pilots to the regulatory requirements relating to the subject and provides information to aid pilots to comply with the provisions of FAR section 91.31.

#### 60-7 Statement of Additional Instruction for Retest (1-27-72).

Announces a new procedure for the use of a computer printed "statement of Additional Instruction" on each Airman Written Test Report that has an unsatisfactory grade for any section. It explains the statement and strongly recommends its use.

#### 60-9 Induction Icing—Pilot Precautions and Procedures (2-28-73).

Provides the pilot with information on the causes and results of induction icing

in reciprocating aircraft engines, and the precautions he should take to reduce the likelihood of icing, and the means available to him in controlling icing when it is encountered.

#### 60-10 Recommended Safety Parameters for Operation of Hang Gliders (5-16-74).

Suggests safety parameters for the operation of "hang gliders" and to present the current FAA intent with respect to the regulation and operation of those vehicles.

#### 60-11 Aids Authorized for Use by Airman Written Test Applicants (8-27-74).

Clarifies FAA policy concerning aids that applicants may use when taking airman written tests.

#### 61-1D Aircraft Type Ratings (5-15-72).

Provides designators adopted by the Federal Aviation Administration for aircraft type ratings issued with pilot certificates.

#### 61-2A Private Pilot (Airplane) Flight Training Guide (9-1-64).

Contains a complete private pilot flight training syllabus which consists of 30 lessons. Reprinted in 1972. (\$2.60 GPO.) FAA 5.8/2:P 64/4/964.

#### 61-3B Flight Test Guide—Private Pilot—Airplane—Single Engine (4-2-68).

Assists the private pilot applicant in preparing for his certification flight test. Reprinted in 1969. (\$0.55 GPO.) TD 4408:P 64/2.

#### 61-4C Multiengine Airplane Class or Type Rating—Flight Test Guide (2-1-71).

Assists the private pilot applicant in preparing for certification or rating flight tests. Reprinted in 1972. (\$0.55 GPO.) TD 4408:M 91/971.

#### 61-5A Helicopter Pilot Written Test Guide—Private—Commercial (8-14-67).

Gives guidance to applicants preparing for the aeronautical knowledge requirements for a private or commercial pilot certificate with a helicopter rating.

#### 61-8C—Instrument Rating (Airplane) Written Test Guide (5-31-72).

Reflects the current operating procedures and techniques in a background setting appropriate for applicants preparing for the subject test. (\$1.45 GPO.) TD 4.8:In 7/4/972.

#### 61-9B Pilot Transition Courses for Complex Single-Engine and Light, Twin-engine Airplanes (1-15-74).

A guide to the procedures and standards to be followed for a thorough and comprehensive checkout in modern single- and twin-engine aircraft. (\$0.35 GPO.) TD 4.8:P 64/6/974.

#### 61-10A Private and Commercial Pilots Refresher Courses (9-27-72).

Provides a syllabus of study requirements and describes the areas of train-



ing that should be emphasized. (\$0.40 GPO.) TD 4.408:P64/6.

**61-11B Airplane Flight Instructor Written Test Guide (9-12-72).**

Provides information to prospective airplane flight instructors about certification requirements, application procedures, and reference study materials; a sample examination is presented with explanations of the correct answers. (\$0.95 GPO.) TD 4.408: In 7/972.

**61-12C Student Pilot Guide (4-24-75).**

Provides guidance for student pilots and those already in primary flight training. Updated to include requirements covered in the revised Part 61. (\$0.55 GPO.) TD 4.8:P64/3/975.

**61-13A Basic Helicopter Handbook (4-5-73).**

Provides detailed information to applicants preparing for private, commercial, and flight instructor pilot certificates with a helicopter rating about helicopter aerodynamics, performance, and flight maneuvers. It will also be useful to certificated helicopter flight instructors as an aid in training students. (\$1.90 GPO.) TD 4.408:H 36/2.

**61-14A Flight Instructor Practical Test Guide (10-23-69).**

Provides assistance to the certificated pilot in preparing for the practical demonstration required for the issuance of the flight instructor certificate. Reprinted in 1973. (\$0.35 GPO.) TD 4.408: In 7/4.

**61-16A Flight Instructor's Handbook (10-14-69).**

Gives guidance and information to pilots preparing to apply for flight instructor certificates and for use as a reference by flight instructors. (\$2 GPO.) Reprinted in 1972. TD 4.408: In 7/3.

**61-17B Flight Test Guide—Instrument Pilot Airplane (1-12-72).**

Provides assistance for the instrument pilot applicant in preparing for his instrument rating flight test. Reprinted in 1973. (\$0.40 GPO.) TD 4.408: In 7/2/972.

**61-18C Airline Transport Pilot (Airplane) Written Test Guide (4-19-71).**

Reflects current operating procedures and techniques in a background setting appropriate for applicants preparing for the Airline Transport Pilot (Airplane) Written Test. (\$1.75 GPO.) Reprinted in 1972. TD 4.8:P 64/5/971.

**61-19 Safety Hazard Associated With Simulated Instrument Flights (12-4-64).**

Emphasizes the need for care in the use of any device restricting visibility while conducting simulated instrument flights that may also restrict the view of the safety pilot.

**61-21 Flight Training Handbook (1-11-66).**

Provide information and direction in the introduction and performance of training maneuvers for student pilots,

pilots requalifying or preparing for additional ratings, and flight instructors. Reprinted in 1969. (\$2.10 GPO.) FAA 1.8:F 64/4.

**61-23A Pilot's Handbook of Aeronautical Knowledge (7-10-70).**

Contains essential, authoritative information used in training and guiding applicants for private pilot certification, flight instructors, and flying school staffs. (\$5.30 GPO.) TD 4.408:P 64/5.

**61-25 Flight Test Guide—Helicopter Private and Commercial Pilot (12-7-65).**

Assists the helicopter pilot applicant in preparing for the certification flight tests; provides information concerning applicable procedures and standards. Published in 1965. (\$0.35 GPO.) FAA 1.8:H 36/2.

**61-27B Instrument Flying Handbook (9-22-70).**

Provides the pilot with basic information needed to acquire an FAA instrument rating. It is designed for the reader who holds at least a private pilot certificate and is knowledgeable in all areas covered in the "Pilot's Handbook of Aeronautical Knowledge." (\$3.35 GPO.) TD 4.8: In 7/2/971.

**61-28A Commercial Pilot Written Test Guide (4-28-70).**

Reflects current operating procedures and techniques for the use of applicants in preparing for the Commercial Pilot—Airplane Written Test. (\$2.00 GPO.) TD 4.408:P 64/4.

**61-29A Instrument Flight Instructor Written Test Guide (10-16-70).**

Reflects current operating procedures, regulations, and techniques for the use of applicants in preparing for the Flight Instructor Instrument Written Test (\$1.00 GPO.) TD 4.8: In 7/5.

**61-30A Flight Test Guide—Gyroplane, Private and Commercial (3-23-72).**

Assist the commercial and private pilot applicant in preparing for his gyroplane test (\$0.75 GPO.) TD 4.408:G99.

**61-31A Gyroplane Pilot Written Test Guide, Private and Commercial (6-9-72).**

Provides guidance and assistance to applicants who are preparing for the Private or Commercial Pilot Gyroplane Written Test. Covers the basic aeronautical knowledge that the prospective gyroplane pilot must know.

**61-32A Private Pilot Written Test Guide (12-1-71).**

Provides information, guidelines, and sample test items to assist applicants for the Private Pilot Certificate in attaining necessary aeronautical knowledge (\$2.50 GPO.) TD 4.408:P 64/971.

**61-33 Gyroplane Flight Instructor Examination Guide (3-25-66).**

Assists applicants who are preparing for the Flight Instructor Rotorcraft Gyroplane Written Examination. Revised in 1966.

**61-34B Federal Aviation Regulations Written Test Guide for Private, Commercial and Military Pilots (2-10-75).**

Outlines the scope of the basic knowledge required of civilian or military pilots who are studying FARs as they pertain to the Regulations terminology; to the certification of private and commercial pilots; to the operation of aircraft in the national airspace; and to the requirements of the National Transportation Safety Board. For use as a guide in preparing for the FAR Written Test. (\$0.70 GPO.) TD 4.8P:64/970.

**61-38 Rotorcraft Helicopter Written Test Guide (8-16-67).**

Gives guidance to applicants preparing for the aeronautical knowledge requirement for a flight instructor certificate with a helicopter rating.

**61-39A Flight Test Guide, Private and Commercial Pilot—Glider (10-19-72).**

Assists applicants for private and commercial pilot flight tests in gliders.

**61-41A Glider Flight Instructor Written Test Guide (1-12-72).**

Provides information, guidelines, and sample test items, to assist applicants for the Glider Flight Instructor rating in attaining necessary aeronautical knowledge.

**61-42A Airline Transport Pilot (Helicopter) Written Test Guide (1-20-72).**

Describes the type and scope of required aeronautical knowledge covered in the written tests, lists reference materials available from GPO bookstores, and presents sample test items with answers and explanations. (\$0.70 GPO.) TD 4.408:H 36/972.

**61-43A Glider Pilot Written Test Guide—Private and Commercial (1-12-72).**

Provides information, guidelines, and sample test items, to assist applicants for the Glider Pilot certificate in attaining necessary aeronautical knowledge.

**61-45 Instrument Rating (Helicopter) Written Test Guide (1-24-68).**

Assists applicants who are preparing for the helicopter instrument rating. Presents a study outline, study materials and a sample test with answers.

**61-46 Flight Instructor Procedures (6-4-69).**

Informs flight instructors of the procedures involved in the renewal of reinstatement of Flight Instructor Certificates, qualification for "Gold Seal" certificates, and endorsing student pilot logbooks for various operations.

**61-47 Use of Approach Slope Indicators for Pilot Training (9-16-70).**

Informs pilot schools, flight instructors and student pilots of the recommendation of the Federal Aviation Administration on the use of approach slope indicator systems for pilot training.



**61-49 Airline Transport Pilot—Airplane Practical Test Guide (8-9-71).**

Describes the practical test requirements for Airline Transport Pilot Certificates (Airplane) and associated class and type ratings. (\$0.45 GPO.) TD 4.408: A1 7/4.

**61-50 Aerial Applicator Aerodynamics Review of "Region of Reversed Command" (2-7-72).**

Provided for the purpose of increasing pilot awareness of the aerodynamic limitations pertinent to aerial applicator operations.

**61-51 Reporting Flight Time on Pilot Applications, FAA Form 8420-3 (6-26-72).**

Advises applicants of the importance of entering their pilot flight time on subject form. (OBM No. 04-R0064.)

**61-52B Flight Instructor of the Year Award Program (1-5-74).**

Provides the details of the Flight Instructor of the Year Award Program.

**61-54 Flight Test Guide (Part 61 revised)—Private Pilot Airplane (4-2-73).**

Establishes a new concept of pilot training and certification requirements. (\$0.65 GPO.) TD 4.408:P64/2/973.

**61-55 Commercial Pilot Airplane Flight Test Guide (4-13-73).**

Assist the applicant and his instructor in preparing for the flight test for the Commercial Pilot Certificate with Airplane Rating under Part 61 (revised). See also AC 61-78 and AC 61-79. (\$0.60 GPO.) TD 4.408:AI7/7.

**61-56 Flight Test Guide (Part 61 revised) Instrument Pilot Airplane (5-1-73).**

Assists the applicant and his instructor in preparing for the flight test for the Instrument Pilot Airplane Rating under Part 61 (revised). (\$0.55 GPO.) TD 4.408:IN/7/2/973.

**61-57 Multiengine Airplane Class and Type Ratings, Flight Test Guide (4-13-73).**

Contains information and guidance concerning the pilot operations, procedures, and maneuvers relevant to the flight test required for the Multiengine Class and Type Rating under Part 61 (revised). See also AC 61-79. (\$0.85 GPO.) TD 4.408:M91/973.

**61-58 Flight Instructor Practical Test Guide (5-1-73).**

Outlines new requirements based on changes to FAR Part 61, Certification of Pilots and Flight Instructors. (\$0.50 GPO.) TD 4.408:IN 7/5.

**61-59 Private and Commercial Pilot, Flight Test Guide (5-24-73).**

Assist the applicant and his instructor in preparing for the flight test for the Private or Commercial Pilot Rotorcraft Certificate with Helicopter Rating under Part 61 (revised). (\$0.75 GPO.) TD 4.408:H36/3.

**61-60 Private and Commercial Pilot Gyroplane, Flight Test Guide (May 1973).**

Outlines appropriate pilot operations and the minimum standards for the performance of each procedure or maneuver which will be accepted by the examiner as evidence of the pilot's competency, under Part 61 (revised). (\$0.65 GPO.) TD 4.408:G99/973.

**61-61 Private and Commercial Pilot Glider, Flight Test Guide (4-27-73).**

Assist the applicant and his instructor in preparing for the flight test for the Private and the Commercial Pilot Certificate with Glider Rating under Part 61 (revised). (\$0.50 GPO.) TD 4.408:G49.

**61-62 Private and Commercial Pilot Free Balloon . . . , Flight Test Guide (June 1973).**

Assists the applicant and his instructor in preparing for the flight test for the Private Pilot or Commercial Pilot Certificate with a lighter-than-air category and free balloon class rating under Part 61 (revised).

**61-63 Flight Test Guide, Private and Commercial Pilot—Lighter-Than-Air Airship (5-23-74).**

Establishes a new concept of pilot training and certification requirements. To provide a transition to these revised requirements, Part 61 (revised) permits the applicant, for a period of 1 year after the effective date, to meet either the previous requirements for the Private Pilot Certificate as outlined in Part 61, prior to November 1, 1973.

**61-64 Flight Test Guide—Instrument Pilot Helicopter (7-23-73).**

Assists the applicant and his instructor in preparing for the flight test for the Instrument Pilot Helicopter Rating under the revised Part 61 (\$0.55 GPO.) TD 4.408:H36/4.

**61-65 Part 61 (Revised) Certification: Pilot and Flight Instructors (9-5-73).**

Informs pilots and flight instructors of the changes in Part 61, revised January 23, 1973, their effects, and the standards and procedures which will be used in implementing them.

**61-66 Annual Pilot in Command Proficiency Checks (11-2-73).**

Presents material relating to annual proficiency checks required for pilots-in-command of civil aircraft type certificated for more than one required pilot crewmember, other than those operating under Parts 121, 123, 127, 133, 135, and 137.

**61-67 Hazards Associated with Spins in Airplanes Prohibited from Intentional Spinning (2-1-74).**

Informs pilots of the airworthiness standards for the type certification of small airplanes prescribed in Section 23.221 of the Federal Aviation Regulations concerning spin maneuvers.

**61-68 Flight Instructor Refresher Clinics—Scheduling, Attendance, Facilities, and Equipment (2-27-74).**

Provides guidance to sponsors regarding scheduling, required facilities and equipment, and attendance control at Flight Instructor Refresher Clinics in which the Flight Instructor Refresher Unit (FIRU) participates.

**61-70 Flight Instructor Instrument—Airplane—Written Test Guide (3-29-74).**

Provides guidance for the applicant by outlining the scope of knowledge required for the Flight Instructor Certificate with an Instrument Airplane Rating. (\$1.65 GPO.) TD 4.8:IN 7/6.

**61-71 Commercial Pilot—Airplane—Written Test Guide (4-9-74).**

Assist applicants who are preparing for the Commercial Pilot—Airplane—Written Test based on the requirements of FAR Part 61 (revised) which became effective Nov. 1, 1973. (\$0.85 GPO.) TD 4.408:P64/4/974.

**61-72 Flight Instructor—Airplane—Written Test Guide (4-9-74).**

Assists applicants who are preparing for the Flight Instructor certificate with Airplane Rating based on the revised provisions of FAR Part 61 which became effective Nov. 1, 1973. (\$1.45 GPO.) TD 4.408:IN 7/974.

**61-73 Private and Commercial Pilot Rotorcraft—Helicopter Written Test Guide (8-8-74).**

Assists applicants who are preparing for the Private or Commercial Pilot certificate with a Rotorcraft—Helicopter rating under the provisions of FAR Part 61 (revised). (\$0.80 GPO.) TD 4.408:P64/7.

**AC 61-74 Flight Instructor Rotorcraft—Helicopter Written Test Guide (5-8-74).**

Assists applicants who are preparing for the Flight Instructor Certificate with a Rotorcraft—Helicopter Rating. (\$1.45 GPO.) TD 4.408:R74.

**AC 61-75 Flight Instructor—Glider—Written Test Guide (9-18-74).**

Assists applicants who are preparing for the Flight Instructor—Glider Written Test. (\$1.10 GPO.) TD 4.408:G 49/2.

**61-78 Substitute "Acceptable Performance Guidelines" Applicable to AC 61-55, Commercial Pilot—Airplane—Flight Test Guide (10-10-74).**

This supplementary AC is to be used in conjunction with AC 61-55, in conducting flight tests of applicants seeking a single engine sea class rating at the commercial pilot skill level. (See AC 61-55).

**61-79 Substitute "Acceptable Performance Guidelines" Applicable to AC 61-57, Multiengine Airplane Class and Type Ratings Flight Test Guide (10-10-74).**

This supplementary AC is to be used in conjunction with AC 61-55 and section 1 of AC 61-57, in conducting the flight test



of an individual who is applying for a multiengine airplane land or sea class rating at the commercial pilot skill level. (See AC 61-55 and AC 61-57).

**61-80 List of Flight Test Guides and Supplementary Advisory Circulars To Be Used for Private and Commercial Flight Tests (10-10-74).**

Provides guidance in determining the appropriate Flight Test Guides and supplementary material to be used when administering private and commercial flight tests for initial certification or an additional class rating in airplanes.

**61.117-1D Flight Test Guide—Commercial Pilot, Airplane (2-14-72).**

Assists the commercial applicant in preparing for his certification flight test. Reprinted in 1973 (\$0.60 GPO.) TD 4.8:P 64/2/972.

**63-1B Flight Engineer Written Test Guide (10-22-70).**

Provides information to prospective flight engineers and others interested in this certification area. Contains information about certification requirements and describes the type and scope of the written test. Lists appropriate study and reference material and presents sample questions similar to those found in the official written tests. (\$0.85 GPO.) TD 4.8:En 3/971.

**63-2A Flight Navigator Written Test Guide (4-4-69).**

Defines the scope and narrows the field of study to the basic knowledge required for the Flight Navigator Certificate. Published in 1969. (\$0.70 GPO.) TD 4.8:F 64/2.

**65-2C Airframe and Powerplant Mechanics Certification Guide (3-15-73).**

Provides information to prospective airframe and powerplant mechanics and other persons interested in FAA certification of aviation mechanics. (\$1.10 GPO.) TD 4.8A1 7/6/973.

**65-4B Aircraft Dispatcher Written Test Guide (7-25-72).**

Describes the type and scope of aeronautical knowledge covered by the aircraft dispatcher written examination, lists reference materials, and presents sample questions. (\$1.40 GPO.) TD 408:A1 7/6.

**65-5A Parachute Rigger—Senior/Master—Certification Guide (12-20-74).**

Provides information on how to apply for a parachute rigger certificate or rating and assists the applicant in preparing for the written, oral, and practical tests. (\$0.75 GPO.) TD 4.8:P 21.

**65-9 Airframe and Powerplant Mechanics—General Handbook (8-26-70).**

Designed as a study manual for persons preparing for a mechanic certificate with airframe or powerplant ratings. Emphasis in this volume is on theory and methods of application, and is intended to provide basic information on principles, fundamentals, and airframe and

powerplant ratings. Reprinted in 1973. (\$6 GPO.) TD 4.408:A1 7/2.

**65-11A Airframe and Powerplant Mechanics Certification Information (4-21-71).**

Provides answers to questions most frequently asked about Federal Aviation Administration certification of aviation mechanics. (\$0.40 GPO.) TD 4.8:A1:7/21/971.

**65-12 Airframe and Powerplant Mechanics Powerplant Handbook (9-25-70).**

Designed to familiarize student mechanics with the construction, theory of operation, and maintenance of aircraft powerplants. Reprinted in 1973. (\$6.05 GPO.) TD 4.408:A1 7/3.

**65-13A FAA Inspection Authorization Directory (4-18-74).**

Provides a new directory of all FAA certificated mechanics who hold an inspection authorization as of March 1, 1974.

**65-15 Airframe and Powerplant Mechanics Airframe Handbook (9-18-72).**

Designed to familiarize student mechanics with airframe construction, repair, and the operating theory of airframe systems. Reprinted in 1973. (\$5.05 GPO.) TD 4.408:A1 7/5.

**65-17 Annual Renewal Meeting of Holders of the Inspection Authorization (1-15-73).**

Initiates an annual renewal meeting for the holders of the inspection authorization.

**65-18 Report Availability on a Survey of the Aviation Mechanics Occupation (9-4-74).**

Announces the public availability of the 1974 report on a Survey of the Aviation Mechanics Occupation.

**65.95-2B Handbook and Study Guide for Aviation Mechanics Inspection Authorization (10-9-70).**

This handbook gives guidance to persons conducting annual and progressive inspections and approving major repairs or alterations of aircraft. While the handbook is primarily intended for mechanics holding or preparing for an Inspection Authorization, it may be useful to aircraft manufacturers and certificated repair stations who have these privileges.

**67-1 Medical Information for Air Ambulance Operators (3-4-74).**

Provides persons or groups interested or involved in civil air ambulance activities with information governing the transport of patients by air.

**67-2 Medical Handbook for Pilots (5-15-74).**

An aviation medicine handbook written in pilots language that provides guidance on when, and when not, to fly. Emphasizes the fact that, to be a good pilot, you must be physically fit, psychologically sound, and well trained. De-

signed to complement the Pilots Handbook of Aeronautical Knowledge. (\$1.45 GPO.) TD 4.8:M46/3.

**Airspace**

**SUBJECT NO. 70**

**70-2 Airspace Utilization Considerations in the Proposed Construction, Alteration, Activation and Deactivation of Airports (7-23-73).**

Advises those persons proposing to construct, alter, activate or deactivate a civil or joint-use (civil/military) airport, for which Federal aid has not been requested of the Federal Aviation Administration.

**70/7460-1D Obstruction Marking and Lighting (4-18-75).**

Describes FAA standards on obstruction marking and lighting and establishes the methods, procedures, and equipment types for both aviation red and high-intensity white obstruction lights.

**70/7460-2E Proposed Construction or Alteration of Objects that may Affect the Navigable Airspace (7-5-73).**

Advises those persons proposing to erect or alter an object that may affect the navigable airspace of the requirement to submit a notice to the Administrator of the Federal Aviation Administration (FAA).

**70/7460-3 Petitioning the Administrator for Discretionary Review; Section 77.37, FAR (3-8-68).**

Revises and updates information concerning the submission of petitions to the Administrator for review, extension, or revision of determinations issued by regional directors or their designees.

**73-1 Establishment of Alert Areas (3-11-68).**

Announces the establishment of alert areas and sets forth the procedures which FAA will follow in establishing such areas.

**Air Traffic Control and General Operations**

**SUBJECT NO. 90**

**90-1A Civil Use of U.S. Government Produced Instrument Approach Charts (4-10-68).**

Clarifies landing minimums requirements and revises instrument approach charts.

**90-5 Coordination of Air Traffic Control Procedures and Criteria (6-13-63).**

States Air Traffic Service policy respecting coordination of air traffic procedures and criteria with outside agencies and/or organizations.

**90-12A Severe Weather Avoidance (2-21-73).**

Warns all pilots concerning flight in the vicinity of known or forecasted severe weather, severe turbulence and hail and advises them that air traffic control facilities, even though equipped with radar, might not always have the capability nor be in a position to provide assistance for circumnavigation of areas of severe weather.



**90-14A Altitude-Temperature Effect on Aircraft Performance (1-26-68).**

Introduces the Denalt Performance Computer and reemphasizes the hazardous effects density altitude can have on aircraft.

**90-20 Weather Radar Radomes (11-12-64).**

Highlights some important points to consider in the selection and maintenance of weather radar radomes.

**90-23D Wake Turbulence (12-15-72).**

Alerts pilots to the hazards of aircraft trailing vortex wake turbulence and recommends related operational procedures.

**90-34 Accidents Resulting from Wheelbarrowing in Tricycle Gear Equipped Aircraft (2-27-68).**

Explains "wheelbarrowing", the circumstances under which it is likely to occur, and recommended corrective action.

**90-38A Use of Preferred IFR Routes (12-29-69).**

Outlines the background, intent, and requested actions pertaining to the use of preferred IFR routes.

**90-42A Traffic Advisory Practices at Nontower Airports (8-16-72).**

Establishes, as good operating practices, procedures for pilots to be apprised of or exchange traffic information, when approaching or departing uncontrolled airports.

**90-43C Operations Reservations for High-Density Traffic Airports (11-14-71).**

Advises the aviation community of the means for all aircraft operators, except helicopters, scheduled and supplemental air carriers and scheduled air taxis, to obtain a reservation to operate to and/or from designated high-density traffic airports.

**AC 90-45A Approval of Area Navigation Systems for Use in the U.S. National Airspace System (2-21-75).**

Provides guidelines for implementation of two-dimensional area navigation (2D RNAV) within the U.S. National Airspace System (NAS). Provides for both VOR/DME dependent systems and self-contained systems such as Inertial Navigation Systems (INS).

**90-48 Pilots' Role in Collision Avoidance (3-20-70).**

Alerts all pilots to the midair collision and near midair collision hazard and to emphasize those basic problem areas of concern, as related to the human casual factors, where improvements in pilot education, operating practices, procedures, and techniques are needed to reduce midair conflicts.

**AC 90-50A VHF Radio Frequency Assignment Plan for Aeronautical Operations (2-7-75).**

Describes the civil air traffic control assignment of frequencies in the very high frequency (118-136 MHz) band.

**90-51 FAA Motion Picture—"Caution—Wake Turbulence" (11-17-70).**

Announces the availability of a new wake turbulence film and encourages its viewing.

**90-54A Cruise Clearances (11-27-73).**

Provides the aviation community guidance when operating under a "cruise" clearance.

**90-58B VOR Course Errors Resulting from 50kHz Channel Selection (9-12-74).**

Provides information concerning a potentially hazardous situation when a 200 channel receiver is inadvertently mistuned 50kHz from the frequency of a 100kHz ground station.

**90-59 Arrival and Departure Handling of High-Performance Aircraft (2-23-72).**

Describes ATC handling of high-performance aircraft in terminal areas.

**90-60 Weather Observation Reporting Obscured or Partially Obscured Sky Condition (3-31-72).**

Provides pilots with information concerning weather conditions reported by weather observers as obscuration or partial obscuration.

**90-62 Flying DME Arcs (1-23-73).**

Describes the procedures and techniques for intercepting DME arcs from radials, maintaining DME arcs, and intercepting radials and localizers from DME arcs.

**90-63 ATC Procedures for Random Area Navigation Routes (5-8-73).**

Provides guidelines and procedures for obtaining approval of random IFR area navigation routes in the U.S. National Airspace System.

**90-64 Automated Radar Terminal System (ARTS) III (6-22-73).**

Advises the aviation community of the capabilities of the Automated Radar Terminal System and the associated services provided by ARTS III equipped air traffic control facilities.

**90-65 Air Traffic Fuel Economy Program (1-18-74).**

Advises the aviation community of flow control procedures that will be utilized to conserve aviation fuel during periods when the normal movement of aircraft is disrupted. Also describes actions required of user groups to ensure efficient flow control planning.

**AC 90-66 Recommended Standard Traffic Patterns for Airplane Operations at Uncontrolled Airports (2-27-75).**

Calls attention to regulatory requirements for the operations of airplanes at uncontrolled airports. Recommends voluntary use of standard traffic pattern flight procedures.

**90-67 Light Signals from the Control Tower for Ground Vehicles, Equipment, and Personnel (8-15-75).**

Provides the aviation community with the meaning of the light signals used

when communicating with ground vehicles, equipment, and personnel on the airport movement area from the control tower.

**91-5B Waivers of Subpart B, Part 91 of the Federal Aviation Regulations (FARs) (1-28-72).**

Provides information concerning the submission of applications for and the issuance of waivers of Subpart B, FAR Part 91.

**91-6 Water, Slush, and Snow on the Runway (1-21-65).**

Provides background and guidelines concerning the operation of turbojet aircraft with water, slush, and/or snow on the runway.

**91-7 Hazards Associated With In-Flight Use of "Visible-Fluid" Type Cigarette Lighters (3-16-65).**

Discusses the potential hazards associated with in-flight use of "visible-fluid" type cigarette lighters.

**91-8A Use of Oxygen by General Aviation Pilots/Passengers (8-11-70).**

Provides general aviation personnel with information concerning the use of oxygen.

**91-9 Potential Hazards Associated With Turbojet Ground Operations (6-19-65).**

Alerts turbojet operators and flight crews to potential hazards involving turbojet operations at airports.

**91-10A Suggestions for Use of ILS Minima by General Aviation Operators of Turbojet Airplanes (10-8-65).**

Provides general aviation operators of turbojet airplanes with information on practices and procedures to be considered before utilizing the lowest published IFR minima prescribed by FAR Part 97 and provides information on pilot-in-command experience, initial and recurrent pilot proficiency, and airborne airplane equipment.

**91-11A Annual Inspection Reminder (12-3-69).**

Provides the aviation community with a uniform visual reminder of the date an annual inspection becomes due. (Reference section 91.169(a) (1) of the FAR's.)

**91.11-1 Guide to Drug Hazards in Aviation Medicine (7-19-63).**

Lists all commonly used drugs by pharmacological effect on airmen with side effects and recommendations. Reprinted 1970. (\$1.15 GPO.) FAA 7.9:D 84.

**91-12B Required Inspection for Aircraft Operating Under FAR Parts 121, 123, 127, or 135 and Reverting to General Operation Under FAR Part 91 (12-9-70).**

Describes acceptable methods for complying with the required inspections set forth in FAR Part 91.

**91-13A Cold weather Operation of Aircraft (1-2-70).**

Provides background and guidelines relating to operation of aircraft in the



colder climates where wide temperature changes may occur.

**91-14B Altimeter Setting Sources (10-1-71).**

Provides the aviation public, industry, and FAA field personnel with guidelines for setting up reliable altimeter setting sources.

**91-15 Terrain Flying (2-2-67).**

A pocket-size booklet designed as a tool for the average private pilot. Contains a composite picture of the observations, opinions, warnings, and advice from veteran pilots who have flown this vast land of ours that can help to make flying more pleasant and safer. Tips on flying into Mexico, Canada, and Alaska. (\$1.40 GOP.) TD 4.2:T27.

**91-16 Category II Operations—General Aviation Airplanes (3-7-67).**

Sets forth acceptable means by which Category II operations may be approved in accordance with FAR Parts 23, 25, 61, 91, 97, and 135.

**91-17 The Use of View Limiting Devices on Aircraft (2-20-68).**

Alerts pilots to the continuing need to make judicious and cautious use of all view limiting devices on aircraft.

**91-21 Inspection Schedule—for Handley-Page Model HP-137 (4-24-69).**

Provides information for use by persons planning to develop an inspection schedule for the Handley-Page Model HP-137 aircraft.

**91-22A Altitude Alerting Devices/Systems (12-23-71).**

Provides guidelines for designing, installing, and evaluating altitude alerting systems.

**91-23 Pilot's Weight and Balance Handbook (5-6-69).**

Provides an easily understood text on aircraft weight and balance for pilots who need to appreciate the importance of weight and balance control for safety of flight. Progresses from an explanation of basic fundamentals to the complete application of weight and balance principles in large aircraft operations. Reprinted in 1972 (\$1.25 GPO.) TD 4.408:P 64/3.

**91-24 Aircraft Hydroplaning or Aquaplaning on Wet Runways (9-4-69).**

Provides information to the problem of aircraft tires hydroplaning on wet runways.

**91-25A Loss of Visual Cues During Low Visibility Landings (6-22-72).**

Provides information concerning the importance of maintaining adequate visual cues during the descent below MDA or DA.

**91-26 Maintenance and Handling of Air-Driven Gyroscopic Instruments (10-29-69).**

Advises operators of general aviation aircraft of the need for proper maintenance of air-driven gyroscopic instruments and associated air filters.

**91-27A Systemworthiness Analysis Program—General Aviation (12-16-70).**

Explains the purpose and applicability of the Systems Worthiness Analysis Program (SWAP) to certificated air taxis, repair stations, pilot and aviation maintenance technician schools that are operated under the privileges of certificates issued by the Federal Aviation Administration.

**91-28 Unexpected Opening of Cabin Doors (12-23-69).**

Outlines the importance of assuring that cabin doors are properly closed prior to takeoff.

**91-32 Safety in and Around Helicopters (5-7-71).**

Provides suggestions to improve helicopter safety by means of acquainting nonflight crew personnel and passengers with the precautions and procedures necessary to avoid undue hazards.

**91-33 Use of Alternate Grades of Aviation Gasoline for Grade 80/87 (10-6-71).**

Provides information relating to the use of alternate grades of aviation gasoline when grade 80/87 is not available, and the resultant effects of the use of the alternate fuels which may have higher TEL (tetraethyl lead) content.

**91-34 Model Aircraft Operating Standards (7-1-72).**

Outlines safety standards for operators of model aircraft, and encourages voluntary compliance with these standards.

**91-35 Noise, Hearing Damage, and Fatigue in General Aviation Pilots (3-28-72).**

Acquaints pilots with the hazards of regular exposure to cockpit noise. Especially pertinent are piston-engine, fixed-wing, and rotary-wing aircraft.

**91-36A VFR Flight Near Noise-Sensitive Areas (7-9-74).**

Encourages pilots making VFR flights near noise-sensitive areas to fly at altitudes higher than the minimum permitted by regulation. National Park areas now included.

**91-37 Truth in Leasing (11-9-72).**

Provides information and guidance for leasees and conditional buyers of U.S. registered large civil aircraft.

**91-38 Large and Turbine-Powered Multiengine Airplanes, Part 91, Subpart D (12-13-72).**

Sets forth guidelines and procedures to assist operators of large and turbine-powered multiengine airplanes in meeting the safety requirements of FAR, Part 91, Subpart D.

**91-39 Recommended Noise Abatement Takeoff and Departure Procedure for Civil Turbojet Powered Airplanes (1-18-74).**

Illustrates the recommended noise abatement takeoff and departure procedure for civil turbojet powered airplanes.

**91-40 Terminal Control Area (TCA) Radar Outage (1-17-74).**

Explains the service that will be provided by Air Traffic Control to aircraft in a terminal control area when a radar outage occurs.

**91-41 Ground Operational Procedures for Aircraft Engine Emission Reduction and Fuel Conservation (3-12-74).**

Recommends ground operational procedures that will minimize air pollution from aircraft ground operations and conserve fuel.

**AC 91-42 Hazards of Rotating Propellers (6-17-75).**

Provides information on propeller accidents and offers suggestions to reduce the frequency of their occurrence.

**AC 91-43 Unreliable Airspeed Indications (6-26-75).**

Alerts pilots to the possibility of erroneous airspeed/Mach indications that may be caused by blocking or freezing of the pitot system and advises of corrective action that can be taken.

**91.29-1 Special Structural Inspections (1-8-68).**

Discusses occurrences which may cause structural damage affecting the airworthiness of aircraft.

**91.83-1A Canceling or Closing Flight Plans (3-25-75).**

Outlines the need for canceling or closing flight plans promptly to avoid costly search and rescue operations.

**91.83-2 IFR Flight Plan Route Information (2-16-66).**

Clarifies the air traffic control needs for the filing of route information in an IFR (Instrument Flight Rules) flight plan.

**95-1 Airway and Route Obstruction Clearance (6-17-65).**

Advises all interested persons of the airspace areas within which obstruction clearance is considered in the establishment of Minimum En Route Instrument Altitudes (MEA's) for publication in FAR Part 95.

**99-1 Security Control of Air Traffic (1-12-72).**

Provides civil aviation with recommended practices for operating aircraft within or penetrating an Air Defense Identification Zone (ADIZ).

**101-1 Waivers of Part 101, Federal Aviation Regulations (1-13-64).**

Provides information on submission of applications and issuances of waivers to FAR Part 101.

**103-2 Information Guide for Air Carrier Handling of Radioactive Materials (7-23-70).**

Acquaints air carrier industry and in particular, air freight handling personnel, with the essential requirements and practical application of the various regulations pertaining to the handling and transportation of radioactive materials.



**103-3 Information Guide for Training Programs and Manual Requirements in the Air Transportation of Dangerous Articles and Magnetized Materials (10-10-73).**

Provides air carriers and air taxi/commercial operators with information concerning recent revisions to FAR Parts 103, 121, and 135 requiring the establishment of manuals and training of personnel in the air transportation of dangerous articles and magnetized materials.

**103-4 Hazard Associated with Sublimation of Solid Carbon Dioxide (Dry Ice) Aboard Aircraft (5-1-74).**

Discusses the potential hazard associated with the sublimation of dry ice aboard aircraft. Precautionary measures and simple rules of thumb are indicated in order to preclude environmentally hazardous conditions affecting crews and passengers aboard aircraft.

**103-5 Preparation and Loading of Magnetron Tubes and Magnetic Materials for Air Shipments (7-16-74).**

Provides information relevant to the preparation and loading of magnetron tubes and magnetic materials for shipment in civil aircraft.

**105-2 Sport Parachute Jumping (9-6-68).**

Provides suggestions to improve sport parachuting safety; information to assist parachutists in complying with FAR Part 105; and a list of aircraft which may be operated with one cabin door removed, including the procedures for obtaining FAA authorization for door removal.

**107-1 Aviation Security—Airports (5-19-72).**

Furnishes guidance to those individuals and organizations having responsibilities under Part 107 of the Federal Aviation Regulations. It also provides recommendations for establishing and improving security for restricted or critical facilities and areas the security of which is not dealt with in Part 107.

**Air Carrier and Commercial Operators and Helicopters**

SUBJECT No. 120

**120-2A Precautionary Propeller Feathering To Prevent Runaway Propellers (8-20-63).**

Emphasizes the need for prompt feathering when there is an indication of internal engine failure.

**120-5 High Altitude Operations in Areas of Turbulence (8-26-63).**

Recommends procedures for use by jet pilots when penetrating areas of severe turbulence.

**120-7A Minimum Altitudes for Conducting Certain Emergency Flight Training Maneuvers and Procedures (7-27-70).**

Issued to emphasize to all air carriers and other operators of large aircraft the necessity for establishing minimum altitudes above the terrain or water when

conducting certain simulated emergency flight training maneuvers.

**120-12 Private Carriage Versus Common Carriage by Commercial Operators Using Large Aircraft (6-24-64).**

Provides guidelines for determining whether current or proposed transportation operations by air constitute private or common carriage.

**120-13 Jet Transport Aircraft Altitude Instrument Systems (6-26-64).**

Provides information about the characteristics of some attitude instrument systems presently installed in some jet transport aircraft.

**120-16A Continuous Airworthiness Program (9-11-69).**

Provides air carriers and commercial operators with guidance and information pertinent to certain provisions of Federal Aviation Regulations Parts 121 and 127.

**120-17 Handbook for Maintenance Control by Reliability Methods (12-31-64).**

Provides information and guidance materials which may be used to design or develop maintenance reliability programs which include a standard for determining the time limitations.

**120-17 CH1 (6-24-66).**

**120-17 CH2 (5-6-68).**

**120-26C Civil Aircraft Operator Designators (9-28-72).**

Revises the criteria and states the procedures for the assignment of a designator and a corresponding air/ground call sign to civil aircraft operators engaged in domestic services on a repetitive basis.

**120-27 Aircraft Weight and Balance Control (10-15-68).**

Provides a method and procedures for weight and balance control.

**120-27 CH1 (11-20-73).**

Adds Part 123 to subject circular.

**120-28A Criteria for Approval of Category IIIa Landing Weather Minima (12-14-71).**

States an acceptable means, not the only means, for obtaining approval of Category IIIa minima and the installation approval of the associated airborne systems.

**120-28A CH1 (1-18-73).**

Revises the CAT IIIa Landing Weather Minima maintenance requirements of paragraph 8 to make them consistent with the requirements for CAT IIa.

**120-29 Criteria for Approving Category I and Category II Landing Minima for FAR 121 Operators (9-25-70).**

Sets forth criteria used by FAA in approving turbojet landing minima of less than 300-3/4 or RVR 4,000 (Category I) and Category II minima for all aircraft.

**120-29 CH1 (12-15-71).**

Revises Appendix 1 and deletes statement in Appendix 2 regarding 19-foot

criteria (does not apply when using an approved automatic landing system).

**120-29 CH2 (7-26-72).**

Clarifies the airborne system evaluation by stressing the necessity for meeting maintenance program requirements.

**120-29 CH3 (12-3-74).**

Outlines the recent change in FAR Part 121 wherein both initial and recurrent pilot qualification for both Category I and II proficiency checks may be performed in a visual simulator.

**121-1A Standard Operations Specifications—Aircraft Maintenance Handbook (6-26-73).**

Provides procedures acceptable to the Federal Aviation Administration which may be used by operators when establishing inspection intervals and overhaul times.

**121-1A CH1 (1-23-75).**

Updates the overhaul and inspection/check period of selected airframes, powerplants, propellers, and appliances in relation to current industry standards.

**121-3N Maintenance Review Board Reports (6-7-73).**

Revises the list of Maintenance Review Board Reports that are currently in effect.

**121-6 Portable Battery-Powered Megaphones (1-5-66).**

Sets forth an acceptable means for complying with rules (applicable to various persons operating under Part 121 of the Federal Aviation Regulations) that prescribe the installation of approved megaphones.

**121-12 Wet or Slippery Runways (8-17-67).**

Provides uniform guidelines in the application of the "wet runway" rule by certificate holders operating under FAR 121.

**121-13 Self-Contained Navigation Systems (Long Range) (10-14-69).**

States an acceptable means, not the only means, of compliance with the referenced sections of the FAR as they apply to persons operating under Parts 121 or 123 who desire approval of Doppler RADAR navigation systems or Inertial Navigation Systems (INS) for use in their operations.

**121-13 CH1 (7-31-70).**

Assures standardization of the Minimum Equipment List (MEL) with respect to Inertial Navigation Systems (INS) through the appropriate Flight Operations Evaluation Board (FOEB).

**121-13 CH2 (12-21-70).**

Permits all flight training for Doppler and INS qualification, to be completed in a simulator or training device approved for conducting the required pilot training and qualifications in the use of these systems.



**121-14 Aircraft Simulator Evaluation and Approval (12-19-69).**

Sets forth one means that would be acceptable to the Administrator for approval of aircraft simulators or other training devices requiring approval under section 121.407.

**121-16 Maintenance Certification Procedures (11-9-70).**

Provides guidance for the preparation of an Operations Specification—Preface Page which will afford nominal and reasonable relief from approved service and overhaul time limits when a part is borrowed from another operator.

**121-17 Aviation Security: Certain Air Carriers and Commercial Operators—Security Programs and Other Requirements (3-14-72).**

Provides general information regarding the requirements of FAR Amdt. 121-85.

**121-18 Aviation Security—Carriage of Weapons and Escorted Persons (7-15-75).**

Provides information and guidance for the implementation of amendments to FAR Part 121 regarding the carriage of weapons on aircraft and for the carriage of persons in the custody of law enforcement officers.

**121.195(d)-1 Alternate Operational Landing Distances for Wet Runways; Turbojet Powered Transport Category Airplanes (11-19-65).**

Sets forth an acceptable means, but not the only means, by which the alternate provision of section 121.195(d) may be met.

**123-1 Air Travel Clubs (10-17-68).**

Sets forth guidelines and procedures to assist air travel clubs using large aircraft in meeting safety requirements of FAR Part 123.

**135.144-1 Small Propeller-Driven Air Taxi Airplanes That Meet Section 135.144 (4-13-72).**

Provides a summary of and information on small propeller-driven air taxi airplanes that comply with section 135.144 and may continue operations under FAR Part 135 after May 31, 1972, with 10 or more passenger seats.

**135.155-1 Alternate Static Source for Altimeters and Airspeed and Vertical Speed Indicators (2-16-65).**

Sets forth an acceptable means of compliance with provision in FAR Part 135 and Part 23 dealing with alternate static sources.

**135-1A Air Taxi Aircraft Weight and Balance Control (9-26-69).**

Provides a method and procedures for developing a weight and balance control system for small aircraft operating in the air taxi fleet under FAR Part 135.

**135-2A Air Taxi Operators of Large Aircraft (11-16-73).**

Provides guidelines for use by air taxi operators or applicants who desire to obtain authorization to operate large

aircraft (more than 12,500 pounds maximum certificated takeoff weight) in air taxi operations.

**135-3A Air Taxi Operators and Commercial Operators of Small Aircraft (1-16-75).**

Sets forth guidelines and procedures to assist persons in complying with the requirements of Federal Aviation Regulations, Part 135.

**135-4 Security Measures and Passenger Screening for Scheduled Air Taxi Commercial Operators (1-22-75).**

Advises interested ATCOs of the availability of operations specifications whereby they may implement security procedures to improve their security and facilitate passenger operation.

**135.60-1 Aircraft Inspection Programs (5-1-70).**

Provides information for use by air taxi operators and commercial operators of small aircraft developing an aircraft inspection program for FAA approval.

**137-1 Agricultural Aircraft Operations (11-29-65).**

Explains and clarifies the requirements of FAR Part 137 and provides additional information, not regulatory in nature, which will assist interested persons in understanding the operating privileges and limitations of this Part.

**139.12-1 Airport Operations Specifications (2-3-75).**

Presents guidelines to assist airport operators in developing airport operations specifications in compliance with the requirements of amended FAR Part 139.

**139.49-1 Programs for Training of Fire Fighting and Rescue Personnel (11-12-74).**

Outlines suggested training programs for airport fire fighting and rescue personnel involved in operating airport fire fighting and rescue equipment and the principles of aircraft fire fighting and rescue techniques.

**Schools and Other Certificated Agencies****SUBJECT NO. 140****140-1G Consolidated Listing of FAA Certificated Repair Stations (2-27-74).**

Provides a revised directory of all FAA certificated repair stations as of November 1973.

**140-2J List of Certificated Pilot Schools (6-27-75).**

Provides a list of FAA certificated pilot flight and ground schools as of July 1975.

**140-3B Approval of Pilot Training Courses Under Subpart D of Part 141 of the FAR (1-8-70).**

The title is self-explanatory.

**140-5 Radio Maintenance Technician School Curriculum (8-11-71).**

Provides information on curriculum subjects for persons desiring to establish radio maintenance technician training courses.

**141-1 Pilot School Certification (8-29-74).**

Sets forth guidelines to assist persons in obtaining a pilot school certificate and associated ratings under FAR Part 141 (revised).

**141-2 Written Tests Prepared by Pilot Schools With Examining Authority Under Part 141 (Revised) of the Federal Aviation Regulations (9-18-74).**

Provides guidance to FAR Part 141 Pilot Schools with examining authority in developing final written tests for FAA certificates and ratings which are equal in scope, depth, and difficulty to comparable written tests prescribed by the Administrator. Also prescribes procedures for administering, maintaining security of, and replacing those tests.

**143-1D Ground Instructor Written Test Guide—Basic & Advanced (4-18-74).**

Outlines the scope of basic knowledge requirements for a ground instructor; outlines source material to obtain this knowledge; presents a sample test with answers and explanations. (\$2.25 GPO.) TD 4408:G91.

**143-2B Ground Instructor—Instrument—Written Test Guide (6-25-70).**

Provides information to applicants for the instrument ground instructor rating about the subject areas covered in the examination and illustrated by a study outline, a list of study materials, and a sample examination with answers. (\$1.30 GPO.) TD 4.8:G 91/971.

**145.101-1A Application for Air Agency Certificate—Manufacturer's Maintenance Facility (3-10-69).**

Explains how to obtain a repair station certificate.

**147-2N Directory of FAA Certificated Aviation Maintenance Technician Schools (11-4-74).**

Provides a revised directory of all FAA certificated aviation maintenance technician schools as of September 30, 1974.

**147-3 Phase III, A National Study of the Aviation Mechanics Occupation (3-22-71).**

Announces the availability for purchase by the public of a reprint of a report of Phase III, A National Study of the Aviation Mechanics Occupation.

**147-4 Reports Availability of a Survey of Text Materials Used in Aviation Maintenance Technician Schools (9-3-74).**

Announces the public availability of the 1974 report on A Survey of Test Materials Used in Aviation Maintenance Technician Schools.

**149-2G Listing of Federal Aviation Administration Certificated Parachute Lofts (4-2-74).**

Provides a revised listing of all FAA certificated parachute lofts as of March 1, 1974.



**Airports**

SUBJECT NO. 150

AIRPORT PLANNING

**150/5000-1 Cancellation of Obsolete Publications Issued by Standards Division, Airports Service (4-17-70).**

Cancels outstanding airport engineering data sheets, technical standard orders, airport engineering bulletins, and miscellaneous publications that are no longer current and to direct the reader to a new source of information, where applicable.

**150/5000-3B Address List for Regional Airports Divisions and Airport District Offices (10-26-73).**

Transmits the address list for all regional Airports Divisions and Airport District Offices.

**150/5000-3B CH 1 (10-31-74).**

Transmits corrected addresses and telephone numbers for the subject AC.

**150/5050-2 Compatible Land Use Planning in the Vicinity of Airports (4-13-67).**

Advises Federal Aviation Administration personnel, local government officials and the public of the availability of the following two reports prepared under the auspices of the FAA by the firm of Transportation Consultants, Inc. *Compatible Land Use Planning On and Around Airports*, and *Aids Available for Compatible Land Use Planning Around Airports*.

**150/5050-3A Planning the State Airport System (June 1972).**

Provides general guidance in preparing a State airport system plan. (\$2.50 GPO.) TD 4.8:Al 7/29.

**150/5060-1A Airport Capacity Criteria Used in Preparing the National Airport Plan (7-8-68).**

Presents the method used by the Federal Aviation Administration for determining when additional runways, taxiways, and aprons should be recommended in the National Airport Plan. The material is also useful to sponsors and engineers in developing Airport Layout Plans and for determining when additional airport pavement facilities should be provided to increase aircraft accommodation capacity at airports.

**150/5060-3A Airport Capacity Criteria Used in Long-Range Planning (12-24-69).**

Describes the method used by the Federal Aviation Administration for determining the approximate practical hourly and practical annual capacities of various airport runway configurations and is used in long-range (10 years or more) planning for expansion of existing airports and construction of new airports to accommodate forecast demand.

**150/5070-3 Planning the Airport Industrial Park (9-30-65).**

Provides guidance to communities, airport boards, and industrial developers for the planning and development of Airport Industrial Parks.

**150/5070-5 Planning the Metropolitan Airport System (5-22-70).**

Gives guidance in developing airport-system plans for large metropolitan areas. It may be used by metropolitan planning agencies and their consultants in preparing such system plans and by the FAA in reviewing same. (\$2.00 GPO.) TD 4.108:M56/2.

**150/5070-6 Airport Master Plans (2-5-71).**

Provides guidance for the preparation of individual airport master plans as provided for under the Airport Airway Development Act of 1970. (\$2.00 GPO.) TD 4.108:P69.

**150/5090-2 National Airport Classification System (Airport System Planning) (6-25-71).**

Sets forth the new national airport classification system. The system is designed for use in the identification and classification of airports within the National System of Airports and for use as a planning tool in long-range airport system planning.

## FEDERAL-AID AIRPORT PROGRAMS

**150/5100-3A Federal-aid Airport Program-Procedures Guide for Sponsors (9-20-68).**

Provides guidance to public agencies that sponsor or propose to sponsor projects under the Federal-aid Airport Program (FAAP) authorized by the Federal Airport Act.

**150/5100-3A CH 1 (11-28-69).**

Transmits revised pages to subject advisory circular.

**150/5100-5 Land Acquisition in the Federal-aid Airport Program (1-30-69).**

Provides general information to sponsors of airport development projects under the Federal-aid Airport Program on the eligibility of land acquisition and extent of Federal participation in land acquisition costs.

**150/5100-6A Labor Requirements for Airport Development Aid Program (ADAP) Contracts (1-31-73).**

Covers the basic labor requirements for the Airport Development Aid Program.

**150/5100-6A CH 1 (3-16-73).**

Transmits a revision to delete page 3-1 from subject Advisory Circular.

**150/5100-7A Requirement for Public Hearing in the Airport Development Aid Program (2-25-72).**

Provides guidance to sponsors of airport development projects under the Airport Development Aid Program (ADAP) on the necessity for and conduct of public hearings.

**150/5100-8 Request for Aid; Displaced Persons; Public Hearings; Environmental Considerations; Opposition to the Project (1-19-71).**

Provides general guidance on the information and coordination required in support of a request for aid for an air-

port development project under the Airport and Airway Development Act of 1970.

**150/5100-9 Engineering Services Under the Airport Development Aid Program (ADAP) (7-1-72).**

Provides guidance for airport sponsors and Federal Aviation Administration offices in the definition, selection, review, and approval of engineering services used under subject program.

**150/5100-10 Accounting Records Guide for Airport Development Aid Program Sponsors (5-15-72).**

Assists sponsors of Airport Development Aid Program (ADAP) projects in maintaining accounting records that will satisfy the recordkeeping and auditing requirements which are necessary to support claims for progress and final payments under the Airport and Airway Development Act of 1970 (Public Law 91-258).

**150/5100-11 Land Acquisition and Relocation Assistance Under the Airport Development Aid Program (2-10-75).**

Provides guidance to sponsors of airport development projects under the Airport Development Aid Program to meet the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (Public Law 91-646).

## SURPLUS AIRPORT PROPERTY CONVEYANCE PROGRAMS

**150/5150-2A Federal Surplus Personal Property for Public Airport Purposes (8-3-73).**

Acquaints public airport owners and other interested parties with the Federal Surplus Personal Property Program for public airports and to outline procedures to be used in applying for and acquiring surplus personal property for this purpose.

**150/5150-2A CH 1 (2-21-74).**

Adds material to paragraph 24, Chapter 6, which was inadvertently omitted in the Advisory Circular during preparation.

## AIRPORT COMPLIANCE PROGRAM

**150/5190-1 Minimum Standards for Commercial Aeronautical Activities on Public Airports (8-18-66).**

Gives to owners of public airports information helpful in the development and application of minimum standards for commercial aeronautical activities.

**150/5190-2A Exclusive Rights at Airports (4-4-72).**

Makes available to public airport owners, and to other interested persons, basic information and guidance on FAA's policy regarding exclusive rights at public airports on which Federal funds, administered by FAA, have been expended.

**150/5190-2A CH 1 (10-2-72).**

Deletes the reference to the sale of aeronautical charts by the National Ocean Survey (formerly the U.S. Coast Guard and Geodetic Survey) and to



encourage airport owners to obtain UNICOM license in their own names and make these facilities available to all fixed base operators.

**150/5190-3A Model Airport Hazard Zoning Ordinance (9-19-72).**

Provides a model airport hazard zoning ordinance for airports. The model ordinance is intended merely as a guide to control manmade and natural hazards to aircraft and will require modifications and revisions to meet the varying circumstances and the state and local laws.

**AIRPORT SAFETY—GENERAL**

**150/5200-3A Bird Hazards to Aircraft (3-2-72).**

Transmits to the aviation public the latest published information concerning the reduction of bird strike hazards to aircraft in flight and in the vicinity of airports.

**150/5200-4 Foaming of Runways (12-21-66).**

Discusses runway foaming and suggests procedures for providing this service.

**150/5200-5 Considerations for the Improvement of Airport Safety (2-2-67).**

Emphasizes that, in the interest of accident/incident prevention, airport management should conduct self-evaluations and operational safety inspections. An exchange of information and suggestions for the improvement of airport safety is also suggested.

**150/5200-6A Security of Aircraft at Airports (6-28-68).**

Directs attention to the problem of pilferage from aircraft on airports and suggests action to reduce pilferage and the hazards that may result therefrom.

**150/5200-7 Safety on Airports During Maintenance of Runway Lighting (1-24-68).**

Points out the possibility of an accident occurring to airport employees caused by electrocution.

**150/5200-8 Use of Chemical Controls to Repel Flocks of Birds at Airports (5-2-68).**

Acquaints airport operators with new recommendations on the use of chemical methods for dispersing flocks of birds.

**150/5200-9 Bird Reactions and Scaring Devices (6-26-68).**

Transmits a report on bird species and their responses and reactions to scaring devices.

**150/5200-11 Airport Terminals and the Physically Handicapped (11-27-68).**

Discusses the problems of the physically handicapped air traveler and suggests features that can be incorporated in modification or new construction of airport terminal buildings.

**150/5200-12 Fire Department Responsibility in Protecting Evidence at the Scene of an Aircraft Accident (8-7-69).**

Furnishes general guidance for employees of airport management and other personnel responsible for firefighting and rescue operations, at the scene of an aircraft accident, on the proper presentation of evidence.

**150/5200-13 Removal of Disabled Aircraft (8-27-70).**

Discusses the responsibility for disabled aircraft removal and emphasizes the need for prearranged agreements, plans, equipment, and improved coordination for the expeditious removal of disabled aircraft from airport operating areas. It also illustrates some of the various methods used, equipment employed, equipment available, and concepts for aircraft recovery.

**150/5200-14 Results of 90-Day Trial Exercise on Fire Department Activity (9-8-70).**

Transmits statistical data collected during a 90-day trial exercise conducted to determine the relationship between aircraft fire and rescue service activities and airport aeronautical operations.

**150/5200-15 Availability of the International Fire Service Training Association's (IFSTA) Aircraft Fire Protection and Rescue Procedures Manual (9-11-70).**

Announces the availability of the subject manual.

**150/5200-16 Announcement of Report AS-71-1 "Minimum Needs for Airport Fire Fighting and Rescue Services" Dated January 1971 (4-13-71).**

Announces the availability of the subject report and describes how to get it.

**150/5200-17 Emergency Plan (2-5-72).**

Contains guidance material for airport management to use in developing an emergency plan at civil airports.

**150/5200-17 CH-1 (6-28-74).**

Provides additional guidance on care and services for uninjured aircraft passengers.

**150/5200-18 Airport Safety Self-Inspection (2-5-72).**

Suggests functional responsibility, procedures, a checklist, and schedule for an airport safety self-inspection.

**150/5200-19 Availability of Report No. FAA-RD-71-20 "An Analysis of Airport Snow Removal and Ice Control" dated March 1971 (11-23-71).**

Announces the availability of subject report.

**150/5200-21 Announcing the Availability of U.S. Air Force Technical Order (T.O. 00-105-9) Aircraft Emergency Rescue Information (5-23-73).**

Explains the nature of the Technical Order and tells how it can be obtained

by airport fire departments which are under the Airport Certification Program.

**150/5210-2 Airport Emergency Medical Facilities and Services (9-3-64).**

Provides information and advice so that airports may take specific voluntary preplanning actions to assure at least minimum first-aid and medical readiness appropriate to the size of the airport in terms of permanent and transient personnel.

**150/5210-4 FAA Aircraft Fire and Rescue Training Film, "Blanket for Survival" (10-27-65).**

Provides information on the purpose, content, and availability of the subject training film.

**150/5210-5 Painting, Marking, and Lighting of Vehicles Used on an Airport (8-31-66).**

Makes recommendations concerning safety, efficiency, and uniformity in the interest of vehicles used on the aircraft operational area of an airport.

**150/5210-6B Aircraft Fire and Rescue Facilities and Extinguishing Agents (1-26-73).**

Outlines scales of protection considered as the recommended level compared with the minimum level in Federal Aviation Regulation Part 139.49 and tells how these levels were established from test and experience data.

**150/5210-6B CH 1 (8-22-73).**

Issues new guidance under paragraph 9, and paragraph 12 of subject advisory circular.

**150/5210-6B CH 2 (5-21-74).**

Includes details on the basic purpose, care, and cleaning of proximity suits. Adds a new chapter 5—contains criteria intended for use in purchasing off-the-shelf design proximity suits.

**150/5210-7A Aircraft Fire and Rescue Communications (3-16-72).**

Provides guidance information for use by airport management in establishing communication and alarm facilities by which personnel required to respond to and function at aircraft ground emergencies may be alerted and supplied with necessary information.

**150/5210-8 Aircraft Firefighting and Rescue Personnel and Personnel Clothing (1-13-67).**

Provides guidance concerning the manning of aircraft fire and rescue trucks, the physical qualifications that personnel assigned to these trucks should meet, and the protective clothing with which they should be equipped.

**150/5210-9 Airport Fire Department Operating Procedures During Periods of Low Visibility (10-27-67).**

Suggests training criteria which airport management may use in developing minimum response times for aircraft fire and rescue trucks during periods of low visibility.



**150/5210-10 Airport Fire and Rescue Equipment Building Guide (12-7-67).**

This title is self-explanatory.

**150/5210-11 Response to Aircraft Emergencies (4-15-69).**

Inform airport operators and others of an existing need for reducing aircraft firefighting response time, and outlines a uniform response time goal of 2 minutes within aircraft operational areas on airports.

**150/5210-12 Fire and Rescue Service for Certificated Airports (3-2-72).**

Furnishes guidance and explains to Federal Aviation Administration (FAA) airport inspectors and airport management the minimum criteria to be applied when evaluating the aircraft fire and rescue service required at an airport for its compliance with the requirements of FAR Part 139.

**150/5210-13 Water Rescue Plans, Facilities, and Equipment (5-4-72).**

Suggests planning procedures, facilities, and equipment to effectively perform rescue operations when an aircraft lands in a body of water, swamp, or tidal area where normal aircraft firefighting and rescue service vehicles are unable to reach the accident scene.

**150/5220-1 Guide Specification for a Light-Weight Airport Fire and Rescue Truck (7-24-64).**

Describes a vehicle with performance capabilities considered as minimum for an acceptable light rescue truck.

**150/5220-4 Water Supply Systems for Aircraft Fire and Rescue Protection (12-7-67).**

The title is self-explanatory.

**150/5220-6 Guide Specification for 1,000-Gallon Tank Truck (4-10-68).**

Assists airport management in the development of local procurement specifications.

**150/5220-9 Aircraft Arresting System for Joint Civil/Military Airports (4-6-70).**

Updates existing policy and describes and illustrates the various types of military aircraft emergency arresting systems that are now installed at various joint civil/military airports. It also informs users of criteria concerning installations of such systems at joint civil/military airports.

**150/5220-10 Guide Specification for Water/Foam Type Aircraft Fire and Rescue Trucks (5-26-72).**

Assists airport management in the development of local procurement specifications.

**150/5220-10 CH 1 (12-4-72).**

Replaces information on weight distribution and fire pump engines which was omitted when the subject circular was developed, consolidating information from four other circulars.

**150/5220-10 CH 2 (8-22-73).**

Expands the guidance under paragraph 14 of subject AC to permit the design of engine systems to operate in freezing temperatures for prolonged periods and to provide device insulation materials, etc., to prevent the truck fire fighting system from freezing.

**150/5230-3 Fire Prevention During Aircraft Fueling Operations (4-8-69).**

This advisory circular provides information on fire preventive measures which aircraft servicing personnel should observe during fueling operations.

**150/5240-7 A Fuel/Energy Conservation Guide for Airport Operators (2-19-74).**

Identifies potential areas where fuel and energy usage can be conserved to assist airport operators in their voluntary actions in reducing fuel and energy consumption.

**150/5280-1 Airport Operations Manual (6-16-72).**

Sets forth guidelines to assist airport operators in developing an Airport Operations Manual in compliance with the requirements of FAR Part 139.

**150/5280-2 Guidance for Airport Operators—Use of Notices to Airmen as Related to FAR Part 139 (2-12-74).**

Provides the airport operator with guidance on Notices to Airmen and assists him in understanding the system in relation to the requirements of FAR Part 139.

**DESIGN, CONSTRUCTION, AND MAINTENANCE—GENERAL**

**150/5300-2C Airport Designs Standards—Site Requirements for Terminal Navigational Facilities (9-21-73).**

Provides information regarding the relative location and siting requirements for the terminal navigation facilities located on or close to an airport.

**150/5300-2C CH 1 (3-1-74).**

Transmits a revised Fig. 2-12 correcting the guidance for the location of the ILS Middle Marker Beacon.

**150/5300-4B Utility Airports—Air Access to National Transportation (6-24-75).**

Establishes design standards for utility airports which are constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight or less.

**150/5300-5 Airport Reference Point (9-26-68).**

Defines and presents the method for calculating an airport reference point.

**150/5300-6 Airport Design Standards, General Aviation Airports, Basic and General Transport (7-14-69). Consolidated Reprint August 1975 Incorporates Changes 1 and 2.**

Provides recommended design criteria for the development of larger than general utility airports.

**150/5300-7B FAA Policy on Facility Relocations Occasioned by Airport Improvements or Changes (11-8-72).**

Reaffirms the aviation community of the FAA policy governing responsibility for funding relocation, replacement and modification to air traffic control and air navigation facilities that are made necessary by improvements or changes to the airport.

**150/5300-8 Planning and Design Criteria for Metropolitan STOL Ports (11-5-70).**

Provides the criteria recommended for the planning and design of STOL ports in metropolitan areas.

**150/5300-8 CH 1 (4-3-75).**

Transmits revised requirements for color coding of threshold and runway end lights on STOL runways.

**150/5300-9 Predesign and Preconstruction Conferences (ADAP) Projects (9-10-73).**

Emphasizes the need for, and encourages the use of, predesign and preconstruction conferences as valuable tools in the administration of construction contracts funded under the ADAP.

**150/5300-10 Federal Aviation Administration Funded Study—Analysis of General Aviation Airports Developed With and Without Federal Financial Assistance (7-21-75).**

Transmits the recommendations and conclusions of a study conducted for the FAA. Advises the public as to how they may obtain the reports.

**150/5320-5B Airport Drainage (7-1-70).**

\*Provides guidance for engineers, airport managers, and the public in the design and maintenance of airport drainage systems. (\$1.30 GPO.) TD 4.8:D78/970.

**150/5320-6B Airport Pavement Design and Evaluation (5-28-74).**

Provides guidance to the public for the design and evaluation of pavements at civil airports.

**150/5320-6B CH 1 (11-18-74).**

Transmits several changes to the basic advisory circular.

**150/5320-10 Environmental Enhancement at Airports—Industrial Waste Treatment (4-16-73).**

Provides basic information on the nature and treatment of industrial wastes produced at airports.

**150/5320-10 CH 1 (11-18-74).**

**150/5320-11 Runway Categorization—Aeronautical Studies—Airport Owners' Responsibilities (9-21-73).**

Emphasizes the need for airport owners to maintain runway and approach zone categories and locations on file with FAA so they may be given consideration under the regulations of FAR Part 77.



**150/5320-12 Methods for the Design, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces (7-30-75).**

Provides guidance on methods that can be used to provide and maintain airport pavement surface friction characteristics.

**150/5325-2C Airport Design Standards—Air Carrier Airports—Surface Gradient and Line-of-Sight (2-6-75).**

Establishes design standards for airports served by certificated air carriers to assist engineers in (1) designing the gradients of airports surface areas used to accommodate the landing, takeoff, and other ground movement requirement of airplanes while (2) providing adequate line of sight between airplanes operating on airports.

**150/5325-2C CH 1 (4-21-75).**

Transmits revised criteria for unobstructed line-of-sight along individual runways and between intersecting runways.

**150/5325-3 Background Information on the Aircraft Performance Curves for Large Airplanes (1-26-65). Consolidated Reprint May 1974. Includes Change 1.**

Provides airport designers with information on aircraft performance curves for design which will assist them in an objective interpretation of the data used for runway length determination.

**150/5325-4 Runway Length Requirements for Airport Design (4-5-65). Consolidated Reprint August 1974. Includes Changes 1 through 8.**

Presents aircraft performance curves and sets forth standards for the determination of runway lengths to be provided at airports. The use of these standards is required for project activity under the Federal-Aid Airport Program when a specific critical aircraft is considered as the basis for the design of a runway.

**150/5325-4 CHG 9 (8-15-75).**

**150/5325-5B Aircraft data (7-30-75).**

Presents a listing of principal dimensions of aircraft affecting airport design for guidance in airport development.

**150/5325-6A Airport Design Standards—Effects and Treatment of Jet Blast (7-13-72).**

Presents criteria on the jet engine blast velocities associated with aircraft in common use in air carrier service, the effects of these blast velocities during ground operations, and suggested means to counteract or minimize these effects.

**150/5325-8 Compass Calibration Pad (5-8-69).**

Provides guidelines for the design, location on the airport, and construction of a compass calibration pad, and basic information concerning its use in determining the deviation error in an aircraft magnetic compass.

**150/5335-1A Airport Design Standards—Airports Served by Air Carriers—Taxiways (5-15-70).**

Provides criteria on taxiway design for airports served by certificated route air carriers with present airplanes and those anticipated in the near future.

**150/5335-1A CH 1 (10-4-73).**

Transmits revised pages to the subject advisory circular.

**150/5335-2 Airport Aprons (1-27-65).**

Provides the criteria for airport aprons which are acceptable in accomplishing a project meeting the eligibility requirements of the Federal-aid Airport Program.

**150/5335-3 Airport Design Standards—Airports Served by Air Carriers—Bridges and Tunnels on Airports (4-19-71).**

Provides general guidance to those contemplating the construction of a bridge-type structure to allow aircraft to cross over an essential surface transportation mode.

**150/5335-3 CH 1 (3-30-73).**

Transmits revised pages.

**150/5335-4 Airport Design Standards—Airports Served by Air Carriers—Runway Geometrics (7-21-75).**

Provides criteria on runway geometric design for airports served by certificated route air carriers.

**150/5340-1D Marking of Paved Areas on Airports (1-19-73).**

Describes standards for marking serviceable runways and taxiways as well as deceptive, closed, and hazardous areas on airports.

**150/5340-4C Installation Details for Runway Centerline and Touchdown Zone Lighting Systems (5-6-75).**

Describes standards for the design and installation of runway centerline and touchdown zone lighting systems.

**150/5340-5A Segmented Circle Airport Marker System (9-10-71).**

Sets forth standards for a system of airport marking consisting of certain pilot aids and traffic control devices.

**150/5340-8 Airport 51-foot Tubular Beacon Tower (6-11-64).**

Provides design and installation details on the subject tower.

**150/5340-13B High Intensity Runway Lighting System (3-24-73).**

Describes standards for the design, installation, and maintenance of high intensity runway lighting systems.

**150/5340-14B Economy Approach Lighting Aids (6-19-70).**

Describes standards for the design, selection, siting, and maintenance of economy approach lighting aids.

**150/5340-14B CH 1 (6-24-73).**

Transmits equipment specifications for an omnidirectional lead in approach light system.

**150/5340-14B CH 2 (2-11-75).**

Provides equipment specifications for an omnidirectional runway end identifier light system (REIL).

**150/5340-15B Taxiway Edge Lighting System (4-4-72).**

Describes the recommended standards for the design, installation, and maintenance of a taxiway edge lighting system.

**150/5340-16B Medium Intensity Runway Lighting System and Visual Approach Slope Indicators for Utility Airports (10-26-70).**

Describes standards for the design, installation, and maintenance of medium intensity runway lighting system (MIRL), and visual approach slope indicators for utility airports.

**150/5340-16B CH 1 (8-2-74).**

Adds the requirement for split red/green lens on the threshold lights and split white/yellow lens on the edge lights in the caution zone. Appendix I was deleted.

**150/5340-17A Standby Power for Non-FAA Airport Lighting Systems (3-19-71).**

Describes standards for the design, installation, and maintenance of standby power for nonagency owned airport visual aids associated with the National Airspace System (NAS).

**150/5340-18 Taxiway Guidance System (9-27-68).**

Describes the recommended standards for design, installation, and maintenance of a taxiway guidance sign system.

**150/5340-19 Taxiway Centerline Lighting System (11-14-68).**

Describes the recommended standards for design, installation, and maintenance of a taxiway centerline lighting system.

**150/5340-20 Installation Details and Maintenance Standards for Reflective Markers for Airport Runway and Taxiway Centerlines (2-17-69).**

Describes standards for the installation and maintenance of reflective markers for airport runway and taxiway centerlines.

**150/5340-21 Airport Miscellaneous Lighting Visual Aids (3-25-71).**

Describes standards for the system design, installation, inspection, testing, and maintenance of airport miscellaneous visual aids; i.e., airport beacons, beacon towers, wind cones, wind tees, and obstruction lights.

**150/5340-22 Maintenance Guide for Determining Degradation and Cleaning of Centerline and Touchdown Zone Lights (4-20-71).**

Contains maintenance recommendations for determining degradation and cleaning of centerline and touchdown zone lights installed in airport pavement.

**150/5340-22 CH 1 (6-23-71).**

Transmits a page change to subject advisory circular.



**150/5340-23 Guide for Location of Supplemental Wind Cones (8-24-71).**

Describes standards for the performance and location of supplemental wind cones.

**150/5345-1D Approved Airport Lighting Equipment (4-11-73).**

Contains lists of approved airport lighting equipment and manufacturers qualified to supply their product in accordance with the indicated specification requirements.

**150/5345-1D CH 1 (11-1-73).**

Transmits additions and revisions to the lists of approved equipment and manufacturers.

**150/5345-2 Specification for L-810 Obstruction Light (11-4-63).**

Required for FAAP project activity.

**150/5345-2 CH 1 (10-28-66).**

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

**150/5345-3B Specification for L-821 Airport Lighting Panel for Remote Control of Airport Lighting (4-21-72).**

Describes the specification requirements for an airport lighting control panel for the remote control of airport lighting circuits and is published by the Federal Aviation Administration for the guidance of the public.

**150/5345-4 Specification for L-892 Internally Lighted Airport Taxi Guidance Sign (10-15-63).**

Required for FAAP project activity.

**150/5345-4 CH 1 (10-28-66).**

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

**150/5345-5 Specification for L-847 Circuit Selector Switch, 5,000 Volt 20 Ampere (9-3-63).**

Required for FAAP project activity.

**150/5345-7B Specification for L-824 Underground Electrical Cables for Airport Lighting Circuits (3-18-71).**

Describes the specification requirements for underground electrical cables for airport lighting circuits. Published by the FAA for the guidance of the public.

**150/5345-10C Specification for L-828 Constant Current Regulators (10-22-71).**

Describes the subject specification requirements and is published by the Federal Aviation Administration for the guidance of the public.

**150/5345-11 Specification for L-812 Static Indoor Type Constant Current Regulator Assembly, 4 Kw and 7½ Kw, With Brightness Control for Remote Operations (3-2-64).**

Required for FAAP project activity.

**150/5345-12A Specification for L-801 Beacon (5-12-67). Consolidated Report November 1974. Includes Change 1.**

Describes the subject specification requirements.

**150/5345-13 Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits (1-6-64).**

Required for FAAP project activity.

**150/5345-18 Specification for L-811 Static Indoor Type Constant Current Regulator Assembly, 4 Kw; With Brightness Control and Runway Selection for Direct Operation (3-3-64).**

Required for FAAP project activity.

**150/5345-18 CH 1 (5-28-64).**

Advise that a detail requirement is not applicable to the circular.

**150/5345-21 Specification for L813 Static Indoor Type Constant Current Regulator Assembly; 4 Kw and 7½ Kw; for Remote Operation of Taxiway Lights (7-28-64).**

Describes the subject specification requirements.

**150/5345-26A Specification for L-823 Plug and Receptacle, Cable Connectors (5-4-71).**

Describes the subject specification requirements.

**150/5345-27A Specification for L-807 Eight-foot and Twelve-foot Unlighted or Externally Lighted Wind Cone Assemblies (6-16-69).**

Describes the subject specification requirement for a hinged steel pole support, an anodized tapered aluminum hinged base pole support, and an "A" frame fixed support with a pivoted center pipe support.

**150/5345-28B Specification for L-851 Visual Approach Slope Indicators and Accessories (2-16-72).**

Describes the specification requirements for visual approach slope indicator (VASI) and simple abbreviated visual approach slope indicator (SAVASI) equipment and accessories.

**150/5345-30A Specification for L-846 Electrical Wire for Lighting Circuits To Be Installed in Airport Pavements (2-3-67).**

Describes, for the guidance of the public, subject specification requirements for electrical wire.

**150/5345-36 Specification for L-808 Lighted Wind Tee (2-3-65).**

Describes the subject specification requirements.

**150/5345-39A FAA Specification L-853, Runway and Taxiway Centerline Retroreflective Markers (9-17-71).**

Describes specification requirements for L-853 Runway and Taxiway Retroreflective markers, for the guidance of the public.

**150/5345-42A FAA Specification L-857, Airport Light Bases, Transformer Housing and Junction Boxes (10-4-73).**

Describes specification requirements for airport light bases, transformer housing and junction boxes for the guidance of the public.

**150/5345-43B FAA/DOD Specification L-856, High Intensity Obstruction Lighting Systems (11-1-73).**

Contains equipment specifications for high intensity obstruction lighting systems.

**150/5345-44A Specification for L-858 Retroreflective Taxiway Guidance Signs (7-20-71).**

Describes the specification for retroreflective taxiway guidance signs.

**150/5345-45 Lightweight Approach Light Structure (5-10-73).**

Presents the specifications for lightweight structures for supporting lights as used in visual navigational aid systems.

**150/5345-46 Specification for Semi-flush Airport Lights (7-11-75).**

Establishes the performance requirements and pertinent construction details for omnidirectional, unidirectional, and bidirectional semi-flush inset light assemblies to be used for lighting airport runways and taxiways.

**150/5345-47 Isolation Transformers for Airport Lighting Systems (7-28-75).**

Contains the specifications requirements for series-to-series isolation transformers for use in airport lighting systems.

**150/5345-48 Specification for Runway and Taxiway Edge Lights (8-1-75).**

Contains the specification requirements for airport runway and taxiway edge lights for the guidance of the public.

**150/5355-1A International Signs to Facilitate Passengers Using Airports (11-3-71).**

Informs airport authorities of the desirability to provide international signs and diagrammatic maps within terminal buildings and of the need for clearly marked road signs for airports.

**150/5355-2 Fallout Shelters in Terminal Buildings (4-1-69).**

Furnishes guidance for the planning and design of fallout shelters in airport terminal buildings.

**150/5360-2 Airport Cargo Facilities (4-6-64).**

Provides guidance material on air cargo facilities.

**150/5360-3 Federal Inspection Service Facilities at International Airports (4-1-66).**

Describes and illustrates recommended facilities for inspection of passengers, baggage, and cargo entering the United States through international airport terminals. The material is for the guidance



of architect-engineers and others interested in the planning and design of these airport facilities.

**150/5370-2A Operational Safety on Airports With Emphasis on Safety During Construction (6-20-75).**

Presents guidelines concerning operational safety on airports with special emphasis on safety during periods of construction activity.

**150/5370-4 Procedures Guide for Using the Standard Specifications for Construction of Airports (5-29-69).**

Provides guidance to the public in the use and application of the Standard Specifications for Construction of Airports.

**150/5370-5A Offshore Airports (2-21-75).**

Announces to the public the availability of a two-volume report on offshore airport planning and construction methods and how to obtain the report.

**150/5370-6 Construction Progress and Inspection Report—Federal-Aid Airport Program (3-16-70).**

Provides for a report on construction progress and inspection of Federal-aid Airport Program (FAAP) projects, suggests a form for the report, and recommends use of the form unless other arrangements exist to obtain the type of information provided by the form.

**150/5370-7 Airport Construction Controls To Prevent Air and Water Pollution (4-26-71).**

Supplies guidance material on compliance with air and water standards during construction of airports developed under the Airport and Airway Development Act of 1970.

**150/5370-9 Slip-Form Paving—Portland Cement Concrete (6-7-73).**

Transmits guidance for the construction of Portland Cement Concrete pavements by the slip-form method.

**150/5370-10 Standards for Specifying Construction of Airports (10-24-74).**

Provides construction standards usually used to specify grading, drainage, paving, lighting, fencing, and turling items of work on civil airports. (\$7.25 GPO) TD 4.24:974.

**150/5380-2A Snow Removal Techniques Where In-Pavement Lighting Systems Are Installed (12-24-64).**

Provides information on damage to in-pavement lighting fixtures by snow removal equipment and recommends procedures to avoid such damage.

**150/5380-4 Ramp Operations During Periods of Snow and Ice Accumulation (9-11-68).**

Directs attention to an increased accident potential when snow or ice accumulates on the surfaces of ramps and aircraft parking and holding areas and suggests some measures to reduce this potential.

**150/5380-5 Debris Hazards at Civil Airports (3-8-71).**

Discusses problems of debris at airports, gives information on foreign ob-

jects, and tells how to eliminate such objects from operational areas.

**150/5390-1A Heliport Design Guide (11-5-69).**

Contains design guidance material for the development of heliports, both surface and elevated. (\$1.50 GPO.) TD 4.108:H36.

**PLANNING GRANT PROGRAM**

**150/5900-1A The Planning Grant Program for Airports (9-26-74).**

Offers guidance to the sponsors of airport system plans and airport master plans on how to participate in the FAA's Planning Grant Program. It describes the application process and the administrative procedures to be followed in performing planning projects.

**Air Navigational Facilities**

**SUBJECT NO. 170**

**170-3B Distance Measuring Equipment (DME) (11-8-65).**

Presents information on DME and some of its uses to pilots unfamiliar with this navigational aid.

**170-6A Use of Radio Navigation Test Generators (3-30-66).**

Gives information received from the Federal Communications Commission as to the frequencies on which the FCC will license test generators (used to radiate a radio navigation signal) within the scope of its regulations and gives additional information to assist the user when checking aircraft navigation receivers.

**170-8 Use of Common Frequencies for Instrument Landing Systems Located on Opposite Ends of the Same Runway (11-7-66).**

In the future, common frequencies may be assigned to like components of two instrument landing systems serving opposite ends of the same runway. This will include the localizers, glide slopes, and associated outer and middle marker compass locators (LOM and LMM).

**170-9 Criteria for Acceptance of Ownership and Servicing of Civil Aviation Interest(s) Navigational and Air Traffic Control Systems and Equipment (11-26-68).**

Contains a revised FAA policy under which the FAA accepts conditional ownership of equipment and systems from civil aviation interests, without the use of Federal funds, and operates, maintains, and provides the logistic support of such equipment.

**170-10 FAA Recommendations to FCC on Licensing of Non-Federal Radio Navigation Aids (10-17-69).**

Gives background information and describes the basis for recommendations to be made by the FAA to the Federal Communications Commission (FCC) regarding licensing of radio navigation aids.

**170-11 Amendment of Federal Aviation Regulation Part 171 (FAR-171)—Cost of Flight and Ground Inspections (9-17-70).**

Alerts the public to the amendment to FAR Part 171 pertaining to the payment of ground and flight inspection charges

prior to the issuance of an approved IFR procedure.

**170-12 Implementation of 50 KHz/V Channels for ILS/VOR/DME (10-7-70).**

Advises aircraft owners, operators and radio equipment manufacturers of plans for future implementation of split channel assignments in the aeronautical radio navigation bands.

**Administrative**

**SUBJECT NO. 180**

**183-30A FAA Designated Mechanic Examiners Directory (4-10-74).**

Provides a revised directory of all FAA designated mechanic examiners as of March 1, 1974.

**183-31B FAA Designated Parachute Rigger Examiner Directory (4-2-74).**

Provides a new directory of all FAA designated parachute rigger examiners as of March 1, 1974.

**183-29-1H Designated Engineering Representatives (7-1-75).**

Lists FAA-approved Designated Engineering Representatives who are available for consulting work.

**Flight Information**

**SUBJECT NO. 210**

**210-1 National Notice to Airmen System (2-8-64).**

Announces FAA policy for the preparation and issuance of essential flight information to pilots and other aviation interests.

**210-3 National Notice to Airmen System—Elimination of NOTAM Code (5-22-70).**

Announces changes in criteria and procedures for the Notice to Airmen System required to accommodate the transmission of all domestic Notice to Airmen data in clear contracted language and eliminate use of the NOTAM code on the domestic service A circuits.

**211-2 Recommended Standards for IFR Aeronautical Charts (3-20-67).**

Sets forth standards recommended by the Federal Aviation Administration for the guidance of the public in the issuance of IFR aeronautical charts for use in the National Airspace System (NAS).

**Advisory Circulars For Sale**

This List contains those circulars that are sold by the Superintendent of Documents. (See numerical index for appropriate price, sequential lettering, if any, and date, etc.)

Acceptable Methods, Techniques, and Practices—Aircraft Alterations, AC 43.13-2.

Acceptable Methods, Techniques, and Practices—Aircraft Inspection and Repair, AC 43.13-1.

Aircraft Dispatcher Written Test Guide, AC 65-4.

Airframe and Powerplant Mechanics Airframe Handbook, AC 65-15.

Airframe and Powerplant Mechanics Certification Guide, AC 65-2.

Airframe and Powerplant Mechanics Certification Information, AC 65-11.

Airframe and Powerplant Mechanics—General Handbook, AC 65-9.



Airframe and Powerplant Mechanics Powerplant Handbook, AC 65-12.  
 Airline Transport Pilot—Airplane Practical Test Guide, AC 61-49.  
 Airline Transport Pilot (Airplane) Written Test Guide, AC 61-18.  
 Airline Transport Pilot (Helicopter) Written Test Guide, AC 61-42.  
 Airplane Flight Instructor Written Test Guide, AC 61-11.  
 Airport Drainage, AC 150/5320-5.  
 Airport Master Plans, AC 150/5070-6.  
 Aviation Weather, AC 00-6.  
 Aviation Weather Services, AC 00-45.  
 Basic Glider Criteria Handbook, AC 21-3.  
 Basic Helicopter Handbook, AC 61-13.  
 Commercial Pilot Airplane Flight Test Guide, AC 61-55.  
 Commercial Pilot Written Test Guide, AC 61-28.  
 Commercial Pilot Airplane Written Test Guide, AC 61-71.  
 Federal Aviation Regulations Written Test Guide for Private, Commercial, and Military Pilots, AC 61-34.  
 Flight Engineer Written Test Guide, AC 63-1.  
 Flight Instructor Instrument—Airplane—Written Test Guide, AC 61-70.  
 Flight Instructor Practical Test Guide, AC 61-14.  
 Flight Instructor Practical Test Guide, AC 61-58.  
 Flight Instructor Airplane Written Test Guide, AC 61-72.  
 Flight Instructor's Handbook, AC 61-16.  
 Flight Test Guide—Commercial Pilot, Airplane, AC 61-117-1.  
 Flight Test Guide—Gyroplane, Private and Commercial, AC 61-30.  
 Flight Test Guide—Helicopter, Private and Commercial Pilot, AC 61-25.  
 Flight Test Guide—Instrument Pilot Airplane, AC 61-17.  
 Flight Test Guide (Part 61 revised)—Instrument Pilot Airplane, AC 61-56.  
 Flight Test Guide—Instrument Pilot Helicopter, AC 61-64.  
 Flight Test Guide (Part 61 revised)—Private Airplane, AC 61-54.  
 Flight Test Guide—Private Pilot—Airplane—Single Engine, AC 61-3.  
 Flight Navigator Written Test Guide, AC 63-2.  
 Flight Training Handbook, AC 61-21.  
 Forming and Operating a Flying Club, AC 00-25.  
 General Aviation Inspection Aids, Summary, AC 20-7.  
 Ground Instructor—Instrument—Written Test Guide, AC 143-2.  
 Ground Instructor Written Test Guide—Basic and Advanced, AC 143-1.  
 Guide to Drug Hazards in Aviation Medicine, AC 91-11-1.  
 Helicopter Design Guide, AC 150/5390-1.  
 Instrument Flight Instructor Written Test Guide, AC 61-29.  
 Instrument Flying Handbook, AC 61-27.  
 Instrument Rating (Airplane) Written Test Guide, AC 61-8.  
 Medical Handbook for Pilots, AC 67-2.  
 Multiengine Airplane Class and Type Rating, AC 61-57.  
 Multiengine Airplane Class and Type Rating—Flight Test Guide, AC 61-4.  
 Nondestructive Testing in Aircraft, AC 43-3.  
 Parachute Rigger Certification Guide, AC 65-5.  
 Personal Aircraft Inspection Handbook, AC 20-9.  
 Pilot Transition Courses for Complex Single-engine and Light, Twin-engine Airplanes, AC 61-9.  
 Pilot's Handbook of Aeronautical Knowledge, AC 61-23.  
 Pilot's Weight and Balance Handbook, AC 91-23.  
 Planning the Metropolitan Airport System, AC 150/5070-5.

Planning the State Airport System, AC 150/5050-3.  
 Private and Commercial Pilot, Flight Test Guide, AC 61-59.  
 Private and Commercial Pilot Glider, Flight Test Guide, AC 61-61.  
 Private and Commercial Pilot Gyroplane, Flight Test Guide, AC 61-60.  
 Private and Commercial Pilots Refresher Courses, AC 61-10.  
 Private Pilot (Airplane) Flight Training Guide, AC 61-2.  
 Private Pilot Written Test Guide, AC 61-32.  
 Standards for Specifying Construction of Airports, AC 150/5370-10.  
 Student Pilot Guide, AC 61-12.  
 Terrain Flying, AC 91-15.  
 Ultrasonic Nondestructive Testing for Aircraft, AC 43-7.  
 U.S. Civil Aircraft Register, AC 20-6.  
 Written Test Guide, Flight Instructor—Glider, AC 61-75.  
 Written Test Guide, Flight Instructor—Rotorcraft—Helicopter, AC 61-74.

#### Internal Publications

Contractions Handbook, 7340.1E (10-1-75).

Gives approved word and phrase contractions used by personnel connected with air traffic control, communications, weather, charting, and associated services. (\$8.40—\$10.50 foreign Sub.—GPO.) TD 4.308: C76/97.

Location Identifiers, 7350.4D (5-1-75).

Incorporates all authorized 3-letter location identifiers for special use in United States, worldwide, and Canadian assignments. (\$11.70—\$14.65 foreign Sub.—GPO.) TD 4.310:.

#### Notice

Effective January 1, 1976 the *En Route Air Traffic Control Handbook* (7110.9) and the *Terminal Air Traffic Control Handbook* (7110.8) will be combined into one handbook—*Air Traffic Control Handbook* (7110.65). The Superintendent of Documents is now accepting orders for this publication. Subscription service will be for a 2-year period with quarterly supplements. Price—\$14.75; foreign mailing \$18.45.

*En Route Air Traffic Control Handbook*, 7110.9D (1-1-75).

Prescribes air traffic control procedures and phraseology for use by personnel providing en route air traffic control service. (\$11.75—\$14.70 foreign Sub.—GPO.) TD 4.308: En1/97.

*Terminal Air Traffic Control Handbook*, 7110.8D (1-1-75).

Prescribes air traffic control procedures and phraseology for use by personnel providing terminal air traffic control services. (\$15.35—\$19.20 foreign Sub.—GPO.) TD 4.308: T27/97.

*Flight Services*, 7110.10C (1-1-75).

This handbook consists of two parts. Part I, the basic, prescribes procedures and phraseology for use by personnel providing flight assistance and communications services. Part II, the teletypewriter portion, includes Services A and B teletypewriter operating procedures, pertinent International Teletypewriter Procedures, and the Conterminous U.S. Service A Weather Schedules. (\$18.30—\$22.90 foreign Sub.—GPO.) TD 4.308: F 64/97.

*International Flight Information Manual*, Vol. 23 (April 1975).

This Manual is primarily designed as a preflight and planning guide for use by U.S. nonscheduled operators, business and private aviators contemplating flights outside of the United States.

The Manual, which is complemented by the International Notams publication, contains foreign entry requirements, a directory of aerodromes of entry including operational data, and pertinent regulations, and restrictions. It also contains passport, visa, and health requirements for each country. Published annually with quarterly amendments. (\$8.75—\$10.95 foreign—Annual Sub. GPO.) TD 4.309: 21.

#### International Notams.

Covers notices on navigational facilities and information on associated aeronautical data generally classified as "Special Notices." Acts as a notice-to-airmen service only. Published weekly. (\$28.10 domestic—\$35.15 foreign—Annual Sub. GPO.) TD 4.11:.

#### Airman's Information Manual:

Part 1—Basic Flight Manual and ATC Procedures.

This part is issued quarterly and contains basic fundamentals required to fly in the National Airspace System; adverse factors affecting Safety of Flight; Health and Medical Facts of interest to pilots; ATC information affecting rules, regulations, and procedures; a Glossary of Aeronautical Terms; U.S. Entry and Departure Procedures, including Airports of Entry and Landing Rights Airports; Air Defense Identification Zones (ADIZ); Designated Mountainous Areas, Seatanas, and Emergency Procedures. (Annual Sub. \$7.60, Foreign mailing—\$1.90 additional. GPO.) TD 4.12: pt. 1/.

#### Part 2—Airport Directory.

This part is issued semiannually and contains a Directory of all Airports, Seaplane Bases, and Heliports in the conterminous United States, Puerto Rico, and the Virgin Islands which are available for transient civil use. It includes all of their facilities and services, except communications, in codified form. Those airports with communications are also listed in Part 3 which reflects their radio facilities. A list of new and permanently closed airports which updates this part is contained in Part 3.

Included, also, is a list of selected Commercial Broadcast Stations of 100 watts or more of power and Flight Service Stations and National Weather Service telephone numbers. (Annual Sub. \$7, Foreign mailing—\$1.75 additional. GPO.) TD 4.12: pt. 2/.

#### SPECIAL NOTICE

Parts 3 and 3A are now sold as separate subscriptions to enable the public to purchase only the information they require.



## Part 3—Operational Data.

Part 3 is issued every 90 days and contains an Airport-Facility Directory of all major airports with control towers and/or instrument landing systems; a tabulation of Air Navigation Radio Aids; Special, General, Area Notices; a tabulation of New and Permanently Closed Airports (which updates Part 2), and supplemental data to Part 4. (Annual subscription \$12.85; \$16.10 foreign mailing. GPO.) TD 4.12: pt. 3.

## Part 3A—Notices to Airmen.

Part 3A is issued every 14 days and contains current Notices to Airmen considered essential to the safety of flight as well as supplemental data to Parts 3 and 4. (Annual subscription \$20.55; \$25.70 foreign mailing. GPO.) TD 4.12: pt. 3A.

## Part 4—Graphic Notices—Supplemental Data.

Part 4 is issued quarterly and contains abbreviations used in all parts of AIM; Parachute Jump Areas; VOR Receiver Check Points; Special Notice Area Graphics; and Heavy Wagon and Oil Burner Routes.

Future editions will be expanded to include Special Terminal Area Charts and data not subject to frequent change. (Annual Sub. \$14.40, Foreign Mailing—\$3.60 additional. GPO.) TD 4.12: pt. 4.

## Aircraft Type Certificate Data Sheets and Specifications (January 1974).

Contains all current aircraft specifications and type certificate data sheets. Subscription service includes the reprint which incorporates effective material previously issued by the FAA through December 1973, and monthly supplements for an indefinite period. (\$84.55—Sub., Foreign mailing—\$21.15 additional. GPO.) TD 4.15: 974.

## Aircraft Engine and Propeller Type Certificate Data Sheets and Specifications (January 1974).

Contains all current aircraft engine and propeller type certificate data sheets and specifications. Subscription service includes the reprint which incorporates effective material previously issued by the FAA through December 1973, and monthly supplements for an indefinite period. (\$35.10—Sub., Foreign mailing—\$8.80 additional. GPO.) TD 4.15/2:974.

## Summary of Supplemental Type Certificates.

Contains all supplemental type certificates issued by FAA regarding design changes in aircraft, engines, or propellers. List includes description of change, the model and type certificate number, the supplemental type certificate number, and the holder of the change. Quarterly supplements provided. (\$41.75—Sub., Foreign mailing—\$10.45 additional. GPO.) TD 4.36:974.

## NOTICE

Commencing with the January 1974 issues, the Summary of Airworthiness Directives—Volumes I and II, will be sold and distributed for the Superintendent

of Documents by the Federal Aviation Administration from Oklahoma City, Oklahoma. Requests for subscriptions to either of these publications should be sent to:

U.S. Department of Transportation, Federal Aviation Administration, P.O. Box 25461, Attn: AAC-23, Oklahoma City, Okla. 73125.

Subscription service will consist of the summary and automatic biweekly updates to each summary for a 2-year period. Make certified checks or money orders payable to Federal Aviation Administration.

## Summary of Airworthiness Directives for Small Aircraft (1-1-74) Volume I.

Presents, in volume form, all the Airworthiness Directives for small aircraft issued through December 31, 1973. AD's for engines, propeller, and equipment are included in each volume. Each volume is arranged alphabetically by product manufacturer. (\$6.95 plus \$1.75 additional for foreign mailing.)

## Summary of Airworthiness Directives for Large Aircraft (1-1-74) Volume II.

Presents, in volume form, all the Airworthiness Directives for large aircraft (over 12,500 pounds maximum certificated takeoff weight) issued through December 31, 1973. AD's for engines, propellers, and equipment are included in each volume. (\$7.50 plus \$1.90 additional for foreign mailing.)

## STATUS OF THE FEDERAL AVIATION REGULATIONS AS OF SEPTEMBER 15, 1975

The FAA publishes the Federal Aviation Regulations to make readily available to the aviation community the regulatory requirements placed upon them. These Regulations are sold as individual Parts by the Superintendent of Documents.

The more frequently amended Parts are sold on subscription service (that is, subscribers will receive Changes automatically as issued), while the less active Parts are sold on a single-sale basis. Changes to single-sale Parts will be sold separately as issued. Information concerning these Changes will be furnished by FAA through its "Status of the Federal Aviation Regulations, AC 00-44." Instructions for ordering this free status list are given in the front of each single-sale Part.

The following list indicates the breakdown of the single-sale Parts and the subscription Parts. Check or money order made payable to the Superintendent of Documents should be included with each order. Submit orders for single-sales and subscription Parts on different order forms. No COD orders are accepted. All FAR Parts should be ordered from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

## PARTS SOLD ON SUBSCRIPTION SERVICE

| Part | Title                                                                                                                                              | Catalog number | Publication date   | Price    |                                |                        |
|------|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------|----------|--------------------------------|------------------------|
|      |                                                                                                                                                    |                |                    | Domestic | Additional for foreign mailing | Changes issued to date |
| 1    | Definitions and abbreviations.....                                                                                                                 | TD 4.6:1       | June 1974.....     | \$3.00   | \$0.75                         | 1                      |
| 21   | Certification procedures for products and parts.....                                                                                               | TD 4.6:21      | May 1974.....      | 3.75     | .90                            | 1                      |
| 23   | Airworthiness standards: Normal, utility, and aerobatic category airplanes.....                                                                    | TD 4.6:23      | June 1974.....     | 3.55     | .90                            | 1                      |
| 25   | Airworthiness standards: Transport category airplanes.....                                                                                         | TD 4.6:25      | .....do.....       | 6.60     | 1.60                           | 1                      |
| 33   | Airworthiness standards: Aircraft engines.....                                                                                                     | TD 4.6:33      | August 1974.....   | 3.00     | .75                            | 1                      |
| 36   | Noise standards: Aircraft type certification.....                                                                                                  | TD 4.6:36      | June 1974.....     | 3.00     | .75                            | 1                      |
| 37   | Technical standard order authorizations.....                                                                                                       | TD 4.6:37      | May 1974.....      | 5.65     | 1.45                           | 1                      |
| 43   | Maintenance, preventive maintenance rebuilding, and alteration.....                                                                                | TD 4.6:43      | January 1974.....  | 2.50     | .65                            | 1                      |
| 47   | Aircraft registration.....                                                                                                                         | TD 4.6:47      | May 1974.....      | 2.50     | .65                            | 1                      |
| 61   | Certification: Pilots and flight instructors.....                                                                                                  | TD 4.6:61      | November 1974..... | 5.05     | 1.30                           | 1                      |
| 63   | Certification: Flight crewmembers other than pilots.....                                                                                           | TD 4.6:63      | Sept. 1974.....    | 3.00     | .75                            | 1                      |
| 65   | Certification: Airmen other than flight crewmembers.....                                                                                           | TD 4.6:65      | .....do.....       | 3.00     | .75                            | 1                      |
| 91   | General operating and flight rules.....                                                                                                            | TD 4.6:91      | March 1974.....    | 11.30    | 2.85                           | 7                      |
| 93   | Special air traffic rules and airport traffic patterns.....                                                                                        | TD 4.6:93      | .....do.....       | 2.45     | .60                            | 2                      |
| 103  | Transportation of dangerous articles and magnetized materials.....                                                                                 | TD 4.6:103     | .....do.....       | 2.20     | .55                            | 5                      |
| 105  | Parachute jumping.....                                                                                                                             | TD 4.6:105     | .....do.....       | 2.00     | .50                            | 1                      |
| 121  | Certification and Operations: Domestic, flag, and supplemental air carriers and commercial operators of large aircraft.....                        | TD 4.6:121     | April 1974.....    | 9.20     | 2.30                           | 9                      |
| 123  | Certification and operations: Air travel clubs using large airplanes.....                                                                          | TD 4.6:123     | .....do.....       | 2.00     | .50                            | 1                      |
| 127  | Certification and operations of scheduled air carriers with helicopters.....                                                                       | TD 4.6:127     | .....do.....       | 4.25     | 1.10                           | 1                      |
| 133  | Rotorcraft external-load operations.....                                                                                                           | TD 4.6:133     | November 1974..... | 3.00     | .75                            | 1                      |
| 135  | Air taxi operators and commercial operators of small aircraft.....                                                                                 | TD 4.6:135     | .....do.....       | 6.20     | 1.55                           | 1                      |
| 139  | Certification and operations: Land airports serving CAB-certificated scheduled air carriers operating large aircraft (other than helicopters)..... | TD 4.6:139     | December 1974..... | 3.00     | .75                            | 2                      |
| 141  | Pilot schools.....                                                                                                                                 | TD 4.6:141     | November 1974..... | 3.00     | .75                            | 1                      |
| 152  | Airport aid program.....                                                                                                                           | TD 4.6:152     | December 1974..... | 3.00     | .75                            | 1                      |



## PARTS SOLD ON SINGLE-SALE BASIS

| Part | Title                                                                                                                    | Catalog No.     | Publication date                      | Price <sup>1</sup> |
|------|--------------------------------------------------------------------------------------------------------------------------|-----------------|---------------------------------------|--------------------|
| 11   | General rulemaking procedures.....                                                                                       | TD 4.6-11       | May 1974.....                         | \$0.55             |
|      | Change 1.....                                                                                                            | TD 4.6-11/Ch 1  | Feb. 1, 1974 and<br>Jan. 1, 1975..... | .45                |
| 13   | Enforcement procedures.....                                                                                              | TD 4.6-13       | .....do.....                          | .70                |
| 27   | Airworthiness standards: Normal category rotorcraft.....                                                                 | TD 4.6-27       | August 1974.....                      | 1.40               |
|      | Change 1.....                                                                                                            | TD 4.6-27/Ch 1  | Oct. 31, 1974.....                    | .75                |
| 29   | Airworthiness standards: Transport category rotorcraft.....                                                              | TD 4.6-29       | August 1974.....                      | 1.70               |
|      | Change 1.....                                                                                                            | TD 4.6-29/Ch 1  | Oct. 31, 1974.....                    | .70                |
| 31   | Airworthiness standards: Manned free balloons.....                                                                       | TD 4.6-31       | August 1974.....                      | .40                |
| 35   | Airworthiness standards: Propellers.....                                                                                 | TD 4.6-35       | .....do.....                          | .35                |
| 139  | Airworthiness directives.....                                                                                            | TD 4.6-39       | May 1974.....                         | .35                |
| 45   | Identification and registration marking.....                                                                             | TD 4.6-45       | .....do.....                          | .65                |
| 49   | Recording of aircraft titles and security documents.....                                                                 | TD 4.6-49       | .....do.....                          | .45                |
| 67   | Medical standards and certification.....                                                                                 | TD 4.6-67       | September 1974.....                   | \$0.50             |
| 71   | Designation of Federal airways, area low routes, controlled<br>airspace, and reporting points.....                       | TD 4.6-71       | January 1975.....                     | .85                |
|      | Change 1.....                                                                                                            | TD 4.6-71/Ch 1  | July 28, 1975.....                    | .30                |
| 73   | Special use airspace.....                                                                                                | TD 4.6-73       | January 1975.....                     | .40                |
|      | Change 1.....                                                                                                            | TD 4.6-73/Ch 1  | July 28, 1975.....                    | .30                |
| 75   | Establishment of jet routes and high area routes.....                                                                    | TD 4.6-75       | January 1975.....                     | .40                |
| 77   | Objects affecting navigable airspace.....                                                                                | TD 4.6-77       | .....do.....                          | 1.10               |
| 95   | IFR altitudes.....                                                                                                       | TD 4.6-95       | .....do.....                          | .50                |
|      | Change 1.....                                                                                                            | TD 4.6-95/Ch 1  | Feb. 13, 1975.....                    | .35                |
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JOHN B. MOORE,

Acting Deputy Director of Management Systems.

[FR Doc.75-28655 Filed 10-24-75; 8:45 am]



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